

JOHN LITTLEFIELD, 8-2-07

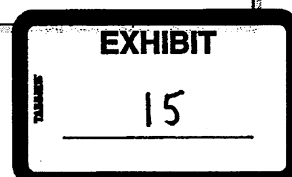
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IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W.A. DREW EDMONDSON, in his)	
capacity as ATTORNEY GENERAL)	
OF THE STATE OF OKLAHOMA and)	
OKLAHOMA SECRETARY OF THE)	
ENVIRONMENT C. MILES TOLBERT,)	
in his capacity as the TRUSTEE))	
FOR NATURAL RESOURCES FOR THE)	
STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
vs.)	4:05-CV-00329-TCK-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

VIDEO DEPOSITION OF JOHN LITTLEFIELD,
produced as a witness on behalf of the Defendants in
the above styled and numbered cause, taken on the
2nd day of August, 2007, in the City of Tulsa,
County of Tulsa, State of Oklahoma, before me, Karla
E. Barrow, a Certified Shorthand Reporter, duly
certified under and by virtue of the laws of the
State of Oklahoma.

TULSA FREELANCE REPORTERS
918-587-2878



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<p>1 A P P E A R A N C E S</p> <p>2 FOR THE PLAINTIFF: MR. ROBERT A. NANCE</p> <p>3 MS. SHARON K. WEAVER</p> <p>4 Attorneys at Law</p> <p>5 502 West 6th Street</p> <p>6 Tulsa, OK 74119</p> <p>7 FOR TYSON FOODS: MS. ERIN WALKER THOMPSON</p> <p>8 Attorney at Law</p> <p>9 The Three Sisters Building</p> <p>10 214 West Dickson Street</p> <p>11 Fayetteville, AR 72701</p> <p>12 FOR CARGILL: MS. THERESA NOBLE HILL</p> <p>13 Attorney at Law</p> <p>14 100 West 5th Street</p> <p>15 Suite 400</p> <p>16 Tulsa, OK 74103</p> <p>17 and</p> <p>18 MR. JOHN TUCKER (phone)</p> <p>19 FOR SIMMONS FOODS: MR. JOHN ELROD</p> <p>20 MS. VICKI BRONSON (phone)</p> <p>21 Attorneys at Law</p> <p>22 211 East Dickson Street</p> <p>23 Fayetteville, AR 72701</p> <p>24 FOR PETERSON FARMS: MR. A. SCOTT McDANIEL</p> <p>25 Attorney at Law</p> <p> 320 South Boston</p> <p> Suite 700</p> <p> Tulsa, OK 74103</p> <p> MR. PAUL E. THOMPSON, JR.</p> <p> Attorney at Law</p> <p> 221 North College Avenue</p> <p> Fayetteville, AR 72701</p> <p> MR. ROBERT SANDERS</p> <p> Attorney at Law</p> <p> 2000 AmSouth Plaza</p> <p> P.O. Box 23059</p> <p> Jackson, MS 39225</p> <p> MR. DAVID BROWN (Phone)</p> <p> Attorney at Law</p> <p> 314 East High Street</p> <p> Jefferson City, MO 65109</p>	<p>1 I N D E X</p> <p>2 W I T N E S S P A G E</p> <p>3 JOHN LITTLEFIELD</p> <p>4 Direct Examination by Mr. Elrod 5</p> <p>5 Direct Examination by Mr. McDaniel 84</p> <p>6 Direct Examination by Mr. Sanders 162</p> <p>7 Direct Examination by Mr. Thompson 171</p> <p>8 Direct Examination by Ms. Hill 177</p> <p>9 Direct Examination by Ms. Thompson 182</p> <p>10 Cross Examination by Mr. Nance 185</p> <p>11 Redirect Examination by Mr. Elrod 187</p> <p>12 Signature Page 190</p> <p>13 Reporter's Certificate 191</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 FOR ODAFF: MS. JANET STEWART</p> <p>2 Attorney at Law</p> <p>3 2800 N. Lincoln Boulevard</p> <p>4 Oklahoma City, OK 73152</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 (Whereupon, the deposition began at 9:23</p> <p>2 a.m.)</p> <p>3 VIDEOGRAPHER: We are now on the record for</p> <p>4 the deposition of Mr. John Littlefield. Today is</p> <p>5 August 2nd, 2007. The time is 9:27 a.m. Would</p> <p>6 counsel please identify themselves?</p> <p>7 MR. ELROD: John Elrod for defendant</p> <p>8 Simmons Foods, Incorporated.</p> <p>9 MR. McDANIEL: Scott McDaniel for Peterson</p> <p>10 Farms, Inc.</p> <p>11 MR. SANDERS: I'm Bob Sanders for the</p> <p>12 Cal-Maine defendants</p> <p>13 MR. THOMPSON: Paul Thompson, Jr. for the</p> <p>14 George's defendants.</p> <p>15 MS. THOMPSON: Erin Thompson for the Tyson</p> <p>16 defendants.</p> <p>17 MS. HILL: Theresa Hill for the Cargill</p> <p>18 defendants.</p> <p>19 MS. WEAVER: Sharon Weaver for the State of</p> <p>20 Oklahoma.</p> <p>21 MS. STEWART: Janet Stewart, Oklahoma</p> <p>22 Department of Agriculture.</p> <p>23 MR. NANCE: Bob Nance for the State of</p> <p>24 Oklahoma.</p> <p>25 MR. ELROD: Telephone?</p>

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<p>1 MR. BROWN: David Brown for Willow Brook. 2 MS. BRONSON: Vicki Bronson for Simmons. 3 VIDEOGRAPHER: Thank you. You can swear 4 the witness. 5 JOHN LITTLEFIELD, 6 being first duly sworn to tell the truth, the whole 7 truth and nothing but the truth, testified as 8 follows: 9 DIRECT EXAMINATION 10 BY MR. ELROD: 11 Q Mr. Littlefield, my name is John Elrod. I 12 represent Simmons Foods in this matter, and I'm 13 going to have a few questions for you. We've not 14 met before today, have we, sir? 15 A No, sir. 16 Q And would you tell me what your name and 17 address is for the record? 18 A John L. Littlefield, 38327 South 4370 Road, 19 Adair, Oklahoma 74330. 20 Q How long have you lived in Adair? 21 A Approximately two years at that place. 22 Q All right, sir. Are you a high school 23 graduate? 24 A Yes. 25 Q What town and what year?</p>	<p>1 company as assistant manager. I worked there for a 2 year or two, then I went to Dallas, went to work for 3 Zales Jewelers as the credit manager. That's where 4 I met my wife, by the way. I was with them for 5 about two or three years, then I went to work for 6 Preston State Bank in the credit card divis -- 7 division. After a few years there, I transferred to 8 the Mercantile National Bank, become an officer of 9 that bank, and was the card manager for Mercantile 10 National Bank. I left Mercantile National Bank and 11 married my wife, went to Oklahoma and opened a 12 furniture store, Littlefield's Furniture in 13 Claremore, Oklahoma. 14 Q What year was that? 15 A 1970, I believe, sir. 16 Q Okay. Keep going. 17 A Then I opened some more stores, and I ended up 18 buying a store in Pryor, and Pryor, being my home, I 19 ran it until '92, I guess, and I sold it. I had a 20 motel and campground in North Carolina for about 21 five years. I sold it, retired, quit. After that, 22 I was a rural mail carrier for -- I needed a few 23 days' work, a couple of years, then I went to work 24 for the State as the director of a museum in Salina, 25 Oklahoma. I was only there about a year when this</p>
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<p>1 A Pryor, Oklahoma, Mayes County, 1959. 2 Q Do you have post-high school education? 3 A Yes, I do. 4 Q Tell me about that, please. 5 A I went to OCU, basketball scholarship, and 6 then back north to Nebraska University, and I never 7 did graduate, but I went to the service after that. 8 Q All right, sir. What years were you in the 9 service? 10 A '62 to '65, 1962 to 1965. 11 Q And what was your MOS? Not the number -- 12 A 716.2. 13 Q I knew you were going to do that. What was 14 your specialty? 15 A I was a records keeper and pay specialist. 16 Q And who was your coach at OCU? 17 A Abe Lemmons. 18 Q That's what I thought. Now, take me 19 through -- give me the nickel tour of your job 20 history after the service, would you, please? 21 A I'm -- I don't hear very well, I apologize. 22 Q And I'm talking softly, that's my fault. 23 Would you give me the nickel tour of your job 24 history after the military? 25 A I started to work in Tulsa for a finance</p>	<p>1 job came up in 1998, and I started with the Oklahoma 2 Department of Agriculture on a contract. 3 Q Explain to me what that arrangement was. I've 4 seen that somewhere in a letter that you were 5 operating under a contract, you were not a W-2 6 employee? 7 A No, I am not. 8 Q Okay. Why is that, why aren't you just a W-2 9 employee? 10 A I guess they don't want to give me benefits. 11 I don't know. 12 Q All right. So there actually exists a written 13 contract between you and ODAFF that sets out the 14 terms of your contractual arrangement; is that 15 right? 16 A That's right. 17 Q Okay. And it's been that way since the very 18 beginning -- 19 A Yes, it has. 20 Q -- in 1998? For what counties are you 21 responsible? 22 A Counties? 23 Q Yes, sir. 24 A Mayes County, Rogers County, Craig County, 25 Ottawa County and Delaware County, most of Delaware.</p>

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<p>1 There is a strip on the north side of -- or the</p> <p>2 south side of 412 that I don't have in Delaware</p> <p>3 County.</p> <p>4 Q So you've got Delaware County north of 412?</p> <p>5 A That's right.</p> <p>6 Q And --</p> <p>7 A I have the only grower in Creek County, and I</p> <p>8 have another grower in Cherokee County that I go to.</p> <p>9 Q Why do you have one in Cherokee?</p> <p>10 A Cherokee?</p> <p>11 Q Yeah.</p> <p>12 A I don't really know.</p> <p>13 Q I mean, is that south of 412 or north of 412?</p> <p>14 A That's north of 412 -- or south, I'm sorry,</p> <p>15 south of 412. It's a --</p> <p>16 Q Who is that grower?</p> <p>17 A Gary Fisher.</p> <p>18 Q Is there somebody else who has the remainder</p> <p>19 of Cherokee County?</p> <p>20 A Yes, there is.</p> <p>21 Q And is that Randy Thompson?</p> <p>22 A No.</p> <p>23 Q Who is it?</p> <p>24 A It's David Berry.</p> <p>25 Q Okay. What county is David Berry responsible</p>	<p>1 A 2002, maybe.</p> <p>2 Q And who was his predecessor?</p> <p>3 A Brett Schuler.</p> <p>4 Q Was Brett there from the beginning?</p> <p>5 A No -- yes -- let's see, no -- yes, he was.</p> <p>6 Q Okay.</p> <p>7 A Yes, he was.</p> <p>8 Q Is that your final answer?</p> <p>9 A Sorry about that. That's my final answer.</p> <p>10 Q And do you know where Brett Schuler is now?</p> <p>11 A No, I don't, not for sure.</p> <p>12 Q Well, do -- do you have a clue, I mean --</p> <p>13 A I think he's still working for the State.</p> <p>14 Q Okay. What are your job duties?</p> <p>15 A Well, I'm a poultry inspector for those</p> <p>16 counties. I don't know if I said Mayes County or</p> <p>17 not in that while ago.</p> <p>18 Q I think you did, yes, sir.</p> <p>19 A Did I? But I go to the farms and do an</p> <p>20 inspection required by once a year, then I do</p> <p>21 technical assistance all year long. I investigate</p> <p>22 complaints when I have complaints. I have helped in</p> <p>23 educational classes that's given. I guess that's</p> <p>24 it.</p> <p>25 Q How many growers are in the counties you work?</p>
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<p>1 for?</p> <p>2 A Well, I'm not sure. Adair County, the</p> <p>3 northern -- or southern part, as we talked about, of</p> <p>4 Delaware County that I don't have.</p> <p>5 Q Uh-huh.</p> <p>6 A Cherokee County, Sequoyah County. I believe</p> <p>7 Muskogee, but I'm not sure on those. I am sure</p> <p>8 on -- on Sequoyah and Adair County and Cherokee.</p> <p>9 Q So in terms of coverage for the entire</p> <p>10 Illinois River watershed on the Oklahoma side, that</p> <p>11 would be you and David Berry?</p> <p>12 A That's correct.</p> <p>13 Q All right. And no one else?</p> <p>14 A Not to my knowledge, no, sir.</p> <p>15 Q And do you know whether David Berry is also</p> <p>16 under contract with --</p> <p>17 A Yes, he is.</p> <p>18 Q -- ODAFF? And did he start at the same time</p> <p>19 that you did?</p> <p>20 A No, he did not.</p> <p>21 Q When did he start?</p> <p>22 A I don't know what year.</p> <p>23 Q Can you get me within spitting distance?</p> <p>24 A 2001, approximately.</p> <p>25 Q All right.</p>	<p>1 A I -- I think I have about 210, 205, 210.</p> <p>2 Q Of that number, how many have in place</p> <p>3 phosphorus based animal waste plans?</p> <p>4 A To the best of my recollection, they all do.</p> <p>5 They either have a plan or they have a letter from</p> <p>6 the NRCS office stating that they will work them up</p> <p>7 a plan. So they do have something current in their</p> <p>8 file.</p> <p>9 Q Okay. Can you give me a breakout, an</p> <p>10 approximate breakout of the ones that actually do</p> <p>11 have a plan in place as opposed to those that have a</p> <p>12 letter from NRCS?</p> <p>13 A Well, it won't be accurate, probably, but I</p> <p>14 would say 90 percent of them have plans.</p> <p>15 Q Up-to-date plans?</p> <p>16 A Well, it has to be renewed every six years.</p> <p>17 Q Yes, sir.</p> <p>18 A And yes, if it's not, they have to have a</p> <p>19 letter. Some of those that have letters will be</p> <p>20 people that had a plan that has not gone back and</p> <p>21 had it updated.</p> <p>22 Q Okay. So let me -- let me see if I can recap</p> <p>23 what I think you just said.</p> <p>24 A Okay.</p> <p>25 Q I think you told me that 90 percent of the</p>

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<p>1 205, 210 growers for whom you have responsibility</p> <p>2 have up-to-date phosphorus based plans in place?</p> <p>3 A I think that's right. You know, that's an</p> <p>4 approximate figure.</p> <p>5 Q All right. And the other 10 percent either</p> <p>6 are operating under an old plan, or at least have a</p> <p>7 NRCS letter saying we're going to get to you when we</p> <p>8 can?</p> <p>9 A That's right.</p> <p>10 Q Is NRCS still writing plans?</p> <p>11 A In my area?.</p> <p>12 Q Yes.</p> <p>13 A There's some counties do and some do not.</p> <p>14 Q Which ones do?</p> <p>15 A Delaware County does. I have had -- Rogers</p> <p>16 County has written some plans. Craig County has</p> <p>17 written some plans. Ottawa County has in the past.</p> <p>18 When they had another director, but they -- they</p> <p>19 haven't written any lately.</p> <p>20 Q NRCS is organized on a county by county basis?</p> <p>21 A Yes, they have a director in each county and</p> <p>22 they have a location in each county.</p> <p>23 Q And just for the record purposes, the NRCS is</p> <p>24 a division of the United States Department of</p> <p>25 Agriculture; is that right?</p>	<p>1 A And that's who I usually talk to about it, and</p> <p>2 I think they assist in writing those plans.</p> <p>3 Q You think the directors themselves assist in</p> <p>4 writing the plans?</p> <p>5 A I think so.</p> <p>6 Q Okay.</p> <p>7 A I don't know that, but I mean, I'm not there</p> <p>8 watching them, but --</p> <p>9 Q Okay. What about Delaware County, who's the</p> <p>10 plan writer in Delaware County today?</p> <p>11 A Well, who I talk with is Eric Daniels.</p> <p>12 Q Is he the director?</p> <p>13 A Yeah, that's -- I don't know if that's what</p> <p>14 they call him or not, but he's the one that's in</p> <p>15 charge of that.</p> <p>16 Q Let me tell you what Dan Parrish testified to</p> <p>17 last year in a deposition, and that's the reason I'm</p> <p>18 asking you these questions.</p> <p>19 A Okay.</p> <p>20 Q He testified that out of 830 registered</p> <p>21 poultry operations in Oklahoma, 360 have plans in</p> <p>22 place, and whatever the remaining number is have</p> <p>23 letters saying we're going to get around to you, and</p> <p>24 he told me that NRCS is out of the plan writing</p> <p>25 business. Now, that was last year, so I'm curious</p>
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<p>1 A Yes, sir, that's right.</p> <p>2 Q This will go on all day.</p> <p>3 A You mean the train or you?</p> <p>4 Q Not me. Who is the human being with the NRCS</p> <p>5 in Mayes County who writes plans today?</p> <p>6 A I don't think I can tell you that because I</p> <p>7 think they were getting a new one at this time and I</p> <p>8 don't know -- I don't know that I have met the new</p> <p>9 person, if they have already put someone in that</p> <p>10 place.</p> <p>11 Q Same question for the other counties; Rogers</p> <p>12 County?</p> <p>13 A You know, to know the director actually, I</p> <p>14 don't. I know in Delaware County I know the</p> <p>15 director. I know in Craig County because they've</p> <p>16 been there a while. Eric Daniels is in Delaware</p> <p>17 County. Eric Fran, I believe it is, is in Craig</p> <p>18 County.</p> <p>19 Q Are you given --</p> <p>20 A The others counties have changed so often that</p> <p>21 I can't --</p> <p>22 Q Are you talking about the directors or the</p> <p>23 plan writers?</p> <p>24 A Well, I'm talking about the directors.</p> <p>25 Q Okay.</p>	<p>1 about squaring up what he said in his deposition in</p> <p>2 another case with what you just testified to. I'm a</p> <p>3 little surprised that 90 percent of the growers have</p> <p>4 plans actually in place today in your counties,</p> <p>5 given Parrish's testimony.</p> <p>6 A Well, I -- I -- I didn't count them, but I'm</p> <p>7 just going by the best recoll -- recollection that I</p> <p>8 have.</p> <p>9 Q Okay.</p> <p>10 A And I've had a lot of plans that's been in my</p> <p>11 area that had been made by two guys that are on</p> <p>12 contract with the State Department of Agriculture.</p> <p>13 Ed Abernathy comes in my area and writes plans.</p> <p>14 Q Who?</p> <p>15 A Ed Abernathy.</p> <p>16 Q Could you spell that for the reporter, please?</p> <p>17 A I can't spell that, but I think spell Ed, E-D.</p> <p>18 MR. McDANIEL: It's Abernathy.</p> <p>19 Q (By Mr. Elrod) Abernathy?</p> <p>20 A Yes.</p> <p>21 Q Okay. I'm sorry. And then who's the other</p> <p>22 one?</p> <p>23 A R.C. Brinley, I believe.</p> <p>24 Q He's not related to Rex Brinley, is he?</p> <p>25 A I hope not.</p>

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<p>1 Q Let's talk for a minute about your 2 reporting -- 3 A Oh -- 4 Q -- go ahead. 5 A Before we leave that, I don't want it to sound 6 like that I'm just contradicted what Dan has said. 7 He has the records over there. But, you know, to 8 the best that I can see in my area, I don't think 9 that's true in some of the other areas. I think 10 that some of them maybe don't have any, I don't know 11 about those particular areas, but I -- and if that's 12 the case, and I'm sure what Dan gave you was 13 correct, then a good portion of those is going to be 14 my area. 15 Q But it's your impression, and I'm not fussing 16 with you or arguing with you, I just want to know 17 what your impression is, it's your impression that 18 most of the people for whom you have responsibility 19 have plans in place? 20 A I think so. 21 Q Okay. 22 A I think so. 23 Q All right. Now, let's talk about your 24 reporting responsibilities for a second. Tell me 25 the hierarchy, working down to you, and I don't mean</p>	<p>1 A I report to Dan. 2 Q Okay. And are there formal reporting 3 requirements, by that I mean are there standardized 4 forms that you send information upstream, do you 5 just pick up the telephone and call him, is that 6 sporadic, is it daily, or explain -- 7 A No, it's sporadic, and I just pick up the 8 phone and call him. Then we have a weekly report 9 that we -- we are sent that we send in, and -- and 10 then we have a summary monthly report. 11 Q And are those reports of your activities? 12 A Yes, they are. 13 Q Any other standardized reports? 14 A No. 15 Q And are those -- 16 A That I know of. I can't -- I think that's the 17 only -- only ones. 18 Q Are the weekly and monthly reports on forms? 19 A Yes, they are. 20 Q All right. Let's return to your duties. You 21 told me you perform an inspection once a year. What 22 do you do when you perform an inspection? 23 A Well, I get the name and address and update 24 that information on the -- on the grower. I ask to 25 see his current restoration certificate. I make</p>
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<p>1 down to you, but I suppose that's the way we talk 2 about hierarchies. 3 A I got it right. 4 Q Talking about Dan Parrish at the top; right? 5 A Yes, sir. 6 Q Okay. Then I'm looking at a web page. Janet 7 Burns, Sally Abbott, Norma Aldridge, Lester 8 Goldsmith, appear to be administrative people in the 9 office. Do you know them? 10 A Yes, I do. 11 Q Okay. And what is the job of Quang Pham as an 12 engineer, if you know? 13 A I don't know for sure. 14 Q What about Harold Springer? 15 A I don't know for sure. 16 Q H.J. Thung, T-H-U-N-G? 17 A I don't know for sure. 18 Q All right. What about Jim Shirazi, who's 19 described on the web site as being a hydrologist? 20 A I'm not sure of that either. 21 Q Do you interface with Mr. or Dr. -- 22 A I know those men. 23 Q Okay. And then there's a number of inspectors 24 listed from Geary Green to Rita Price, and you're on 25 that list. Who do you report to?</p>	<p>1 sure that that figure that he's registered for and 2 the number of birds is -- is what I put on my 3 inspection sheet. I ask him for his current soil 4 and litter test analysis, and I -- I look at those 5 and I put that current soil and litter analysis date 6 on the inspection sheet. It asks me if they have an 7 animal waste management plan, and I indicate they do 8 or don't. 9 Q Do you ask -- ask to actually see it? 10 A Yes, I do look at them. I actually look at 11 them. And so there's questions about catastrophic 12 loss, have you had one this past year. 13 Q Why do you ask that question? 14 A Well, we need to know if they've had any more 15 death. 16 Q Are you talking about animal loss? 17 A Animal loss. 18 Q Okay. 19 A Than -- than a normal mortality that they go 20 through, because there's special ways that they have 21 to handle a catastrophic loss. 22 Q In terms of bird disposal, you mean? 23 A Yes, bird disposal. 24 Q Do you see that very often, catastrophic loss? 25 A Well, not very often, but you see it in the</p>

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<p>1 summer a lot. We see it sometimes when the 2 computers go down, fans go down occasionally. And 3 then in the past, we've had some disease outbreaks 4 that caused it. 5 Q What kind of disease; LT? 6 A LT primarily, yes, sir. 7 Q Okay. Are these surprise inspections? 8 A Yes, they are in most cases, yes. Some cases 9 no, because they're working and I -- I've been there 10 since '98 and I know just about when I can catch 11 them where they're available or whether they're not, 12 and who keeps the records, if it's the lady or the 13 man, and where the records are. 14 Q Do you get to know these people pretty well? 15 A Yes, sir, I do. 16 Q And for the most part, are they cooperative 17 with you? 18 A Yes, sir, they are. 19 Q Courteous? 20 A Yes, sir. 21 Q Have you had any problems with any hostility 22 at any time ever? 23 A Starting out, you know, it was a change, and 24 farmers are pretty conservative and independent 25 people.</p>	<p>1 Q Okay. And your sole role in that is to knock 2 on the door and find out if they've got a plan and 3 ask to see it; is that true? 4 A Yes, and I do that at the time that I do the 5 inspections, that's some of the material that they 6 furnish me when I sit down to do their inspection. 7 Q Okay. What else do you do on the inspections 8 that we haven't talked about yet? 9 A I -- I check their education certificates to 10 make sure that they're up to date on their education 11 certificates. I get information in regards to where 12 the litter has been gone, where it's gone to, if 13 it's been sold or given away to somebody or place, 14 if they've spread it on their land, the fields that 15 they spread on, and I get the amount of tonnage that 16 they have cleaned out, whether they have cleaned out 17 or caked out their buildings or have a total clean 18 out. I get that in tonnage. I get information 19 about whether they have stored it. A lot of them 20 now have storage buildings and they will store it in 21 there, so I get that information, get them to sign 22 it, that's about it, I guess. 23 Q Have you caught anybody in a lie in the almost 24 10 years now? 25 A Yeah, I would have to say I have. I don't</p>
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<p>1 Q Yes, sir. 2 A And I felt like my job, the first year or so, 3 was PR work, kind of getting to know them a little 4 bit and letting them know me. And eastern Oklahoma 5 is not just like anywhere, and so I think it's been 6 to my advantage and the State's advantage for the 7 job that I do. 8 Q You mean the attitude that you bring to the 9 job? 10 A Yes, I think so, and -- and what I need to 11 know, they feel more free to give me the 12 information. If I -- my -- another way of 13 describing it, you know, of being someone that comes 14 and regulates. You can come with a gun on your 15 side, you know, and they'll give you what you want, 16 but I think you can go and give them a handshake and 17 they'll give you what you want, and I kind of 18 operate from that standpoint. 19 Q Any bad actors out there? 20 A You know, not many now, no. I can't -- I 21 really don't have one. 22 Q Okay. Now, I get the impression that in terms 23 of getting a plan written, that's the responsibility 24 of the grower dealing directly with NRCS? 25 A That's true.</p>	<p>1 remember it specifically, but I know that I have. 2 Q Okay. Very often? 3 A No, sir. 4 Q Okay. Now, you also testified that you 5 provide -- do you think we've now covered all of 6 your activities as part of the inspection aspect of 7 what you do? 8 A That -- the inspection, then I do complaints, 9 you know, that's called in to the State and they 10 refer them to me, and I go out and investigate the 11 complaints, and I do soil testing sometimes, if 12 that's required in the complaint. We have done, in 13 the past, routine soil testing and -- 14 Q Let's talk about complaints for a second. 15 What kinds and types of complaints do you receive, 16 and are they anonymous? 17 A I would say in my area that at least half and 18 maybe more are anonymous. 19 Q Okay. 20 A Probably more. 21 Q And how often do you get a complaint, and then 22 we'll talk about the types of complaints? You're 23 using the word complaint as a term of art, aren't 24 you? I mean, a complaint is something that's 25 official, it's not just somebody whining to you at</p>

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<p>1 the coffee shop?</p> <p>2 A No, that's right, that's right.</p> <p>3 Q Okay.</p> <p>4 A In fact, I need to point out, I don't take</p> <p>5 complaints personally when I'm out in the field. I</p> <p>6 might call if somebody has told me something, I</p> <p>7 might call Dan and tell Dan about it, but I don't</p> <p>8 investigate anything that people just tell me out</p> <p>9 here on the street or -- or in the coffee shop or</p> <p>10 something like that. I tell them that they have to</p> <p>11 call the State and give information and make it a</p> <p>12 formal complaint, and then they'll contact me and</p> <p>13 I'll investigate it.</p> <p>14 Q So the complaint comes from the complainant to</p> <p>15 Dan Parrish's office, and then back to you for</p> <p>16 action?</p> <p>17 A That's exactly right.</p> <p>18 Q All right. Now, how many of things do you</p> <p>19 deal with on an annual basis, approximately? I</p> <p>20 don't know if it's so --</p> <p>21 A Thirty or 40. I -- you know, I don't know. I</p> <p>22 have a lot in my area compared to the other</p> <p>23 inspectors because of the sensitive area that it is,</p> <p>24 and I -- I think that's the reason, new people</p> <p>25 moving in.</p>	<p>1 A Yeah, probably in summer, you know, it's more</p> <p>2 litter.</p> <p>3 Q More litter being spread?</p> <p>4 A Yeah.</p> <p>5 Q I'd like to try to get a breakdown, and I know</p> <p>6 we're just searching your memory and your experience</p> <p>7 right now so I don't expect precision, but out of</p> <p>8 the 30 to 40 complaints you deal with a year, what</p> <p>9 percentage of those would be regarding odor?</p> <p>10 A Included in the complaint, a good number of</p> <p>11 them.</p> <p>12 Q Okay.</p> <p>13 A They have other issues in it, but odor will</p> <p>14 always -- not always, but a good part of the time</p> <p>15 will be included in it.</p> <p>16 Q Is it your impression that odor is typically</p> <p>17 the driver of the complaint being made in the first</p> <p>18 place?</p> <p>19 A Yes, sir, that's my impression.</p> <p>20 Q That's all right, that's all I can ask you.</p> <p>21 And is it your impression, then, that the other</p> <p>22 parts of a complaint are usually tag along?</p> <p>23 A Well, I don't know that to be a fact. I -- I</p> <p>24 think they are sometimes serious about what they</p> <p>25 have made allegations about, but really don't know.</p>
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<p>1 Q So 30 to 40, maybe one a week, one every two</p> <p>2 weeks, somewhere in that range?</p> <p>3 A Yeah, and sometimes 10, then I might skip a</p> <p>4 month.</p> <p>5 Q What types of complaints, what do they cover?</p> <p>6 A Well, mostly odor.</p> <p>7 Q Uh-huh. Does that come from the country</p> <p>8 banging up against the city?</p> <p>9 A I think so.</p> <p>10 Q Okay.</p> <p>11 A The water contamination, well contamination,</p> <p>12 spreading litter without a license, without soil</p> <p>13 samples, and usually in those kind of complaints,</p> <p>14 included in those will be, and it smells horrible,</p> <p>15 so --</p> <p>16 Q Is that your word or are those the words of --</p> <p>17 A That's the words they'll say.</p> <p>18 Q Okay. All right. So --</p> <p>19 A Be in the complaint.</p> <p>20 Q In the complaint?</p> <p>21 A Sir?</p> <p>22 Q In the complaint they say it smells horrible?</p> <p>23 A Yeah, that's right, they will.</p> <p>24 Q Now, do you get more of those odor complaints</p> <p>25 during any particular season of the year?</p>	<p>1 They're sitting from a roadside or drive by or maybe</p> <p>2 across the road or a neighbor or something, so they</p> <p>3 don't know sometimes.</p> <p>4 Q Now, give me a feel for how many of your</p> <p>5 complaint investigations have shown the complaint to</p> <p>6 be true? Forgetting odor for a second.</p> <p>7 A Well, let me tell you, when I go out a</p> <p>8 compliant, I investigate it and I write down</p> <p>9 everything. I report it to the State, I make a</p> <p>10 report on it, and then if it's in regards to well</p> <p>11 contamination, I look that issue up. If it's in</p> <p>12 regard to that odor, I put my nose to it, and</p> <p>13 overapplication sometimes, then I write a report and</p> <p>14 I send it in to the State, and the State makes those</p> <p>15 decisions. Now, once they have determined from my</p> <p>16 investigation maybe they need me to do a soil</p> <p>17 sample, they'll contact me and I'll go out and do a</p> <p>18 soil sample. Maybe from my investigation they say,</p> <p>19 we didn't find anything, and I don't write that I</p> <p>20 didn't find anything, I don't write that I recommend</p> <p>21 that this guy gets fined or he's -- this or that, I</p> <p>22 just write down the facts, as Joe Friday used to</p> <p>23 say.</p> <p>24 Q Okay.</p> <p>25 A And they make the decisions. They'll send a</p>

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1 letter to the complainant and also to the person
 2 it's against, if they have the names and addresses
 3 of those people. Many times, if it's anonymous,
 4 I -- I, you know, am told, I know it's so and so,
 5 you know, but I don't know. I don't -- I don't look
 6 for them.
 7 Q Give me a feel for the number of complaints or
 8 investigations of complaints that have to do with
 9 applicators as opposed to farmers or growers. Is
 10 that a fair question?
 11 A Farmers that are applying litter on their own
 12 farm or what --
 13 Q Let's break it out. Let's break it out
 14 between farmers who are applying litter on their
 15 farm as -- what's the word, private applicators?
 16 A That's private applicator, yes, sir.
 17 Q Versus commercial applicators.
 18 A That's right.
 19 Q All right. Let's separate the world into
 20 those two types of people. How many -- give me a
 21 feel for what percentage of complaints are against
 22 private applicators versus commercial applicators.
 23 A I don't know how to break that out. I -- I
 24 would think that -- and this is strictly my opinion
 25 and guesswork that the application, complaints about

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1 impression that a lot of them it's their full-time
 2 job?
 3 A They usually have other things that they do,
 4 the ones I know.
 5 Q You also testified that you participate in
 6 educational classes. Tell me about that.
 7 A Well, the grower is responsible for getting an
 8 initial nine hours when he first signs up, and
 9 within the first year he's required by law to get
 10 initial nine hours of education, and those are done
 11 by the OSU director in different counties, put those
 12 on. Then they are required, after they have the
 13 initial nine hours, to have a three hour update
 14 continuous education class every year. Because of
 15 changing of our forms and sometimes our way of doing
 16 business with the Department of Ag and sometimes,
 17 most of the time because they don't understand and
 18 won't read some of the stuff, I have gone and given
 19 some classes to growers and applicators on the three
 20 hour continuous education all the way from Broken
 21 Bow to Afton at different locations. And it was
 22 primarily on helping them to understand how to
 23 report their litter information, how to get their --
 24 it was -- it was in regards to the rules and
 25 regulations is what it really was.

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1 application is -- probably most of the time is
 2 commercial applicators from commercial applicators.
 3 Q How many commercial applicators do you have
 4 operating in your region?
 5 A I have 150, I imagine. Commercial?
 6 Q Yes, sir.
 7 A No, that's a total of private and commercial.
 8 Commercial, probably 30, I don't know, approximately
 9 20 or 30.
 10 Q Let me ask you about those 20 or 30 and how
 11 they operate, if you know. Would it be more true
 12 that those people buy litter and then resell litter
 13 and apply it as part of the reselling process or do
 14 they simply act as a middleman and transfer litter
 15 from one place to another? That was a very bad
 16 question but --
 17 A No, I understand it. I think I understand it.
 18 In most cases, I think, they buy the litter. Get
 19 the litter from the grower. And they transport it
 20 and sell it and spread it.
 21 Q Okay. So in most cases, the commercial
 22 applicators are buying and selling litter, buying it
 23 and reselling it?
 24 A That's true, I think.
 25 Q Now, for the people who do that, is it your

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1 Q Okay.
 2 A And I've done that for the last three years or
 3 four years, I guess.
 4 Q Tell me what's taught. Tell me what's taught
 5 in the initial nine hour program and what's taught
 6 in the three hour annual continuing education
 7 course.
 8 A Well, in the nine hour, and I don't have it
 9 all in my mind, but in the nine hour class, they --
 10 initially they talk about the rules and regulations,
 11 and that will be a combination of probably
 12 approximately three hours, and then they'll talk
 13 about the animal waste management plan, how to use
 14 it, what it's for, you're supposed to get it, then
 15 they'll talk about application rates, about, you
 16 know, the proper way of spreading litter and how you
 17 can spread it. They'll have in that --
 18 Q Let me stop you just for a second.
 19 A Yes, sir.
 20 Q In Oklahoma, the amount that can be applied
 21 under an animal waste management program is not
 22 limited to the agronomic uptake rate of a particular
 23 plant, is it?
 24 A No, it's not right now, to my knowledge, it's
 25 not.

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<p>1 Q All right. And forgive me for interrupting.</p> <p>2 When thoughts go into my brain, I have to say them</p> <p>3 immediately or they'll be gone. Go ahead, please.</p> <p>4 A I forgot where I was.</p> <p>5 Q You were talking about what's taught in the</p> <p>6 nine hour program --</p> <p>7 A Oh.</p> <p>8 Q -- and what's taught in the three hour</p> <p>9 program.</p> <p>10 A Included in some of the application</p> <p>11 information that they put forth, they will explain</p> <p>12 how to calibrate a truck, calibrate the rate of</p> <p>13 litter that -- that will come from -- spread on the</p> <p>14 land. That's primarily it for the nine hours, you</p> <p>15 know. It takes nine hours to get all that through.</p> <p>16 Q Is there a Power Point presentation that's</p> <p>17 used or slide show or something like --</p> <p>18 A Yes, they have some slides to show them at the</p> <p>19 same time. They also do a pre-test and then a</p> <p>20 post-test, you know. I don't think -- we don't do</p> <p>21 any grading on them, but they fill out and ask</p> <p>22 questions and they answer them, and then after they</p> <p>23 have seen the slide and the presentation, well,</p> <p>24 then, they -- and they do that -- there's actually</p> <p>25 nine different subjects, but some of the subjects is</p>	<p>1 he's --</p> <p>2 Q Okay.</p> <p>3 A -- at Stillwater.</p> <p>4 Q All right. What about the three hour course?</p> <p>5 A The three hour course is a continuation</p> <p>6 education that they're required to get once a year,</p> <p>7 after they have received the nine hours, and it</p> <p>8 consists of a lot of different things. It may be</p> <p>9 about bugs in their houses, it may be about rodents</p> <p>10 in their houses, it may be about controlling weeds,</p> <p>11 you might -- application rates, riparian areas, so</p> <p>12 there's a lot of different subject matter, and that</p> <p>13 there is determined by the educator, which in this</p> <p>14 case right now, the one that's in charge is Dr.</p> <p>15 Payne.</p> <p>16 Q Let's hypothetically presume that there are no</p> <p>17 company -- there were no company managed registered</p> <p>18 poultry operations in your area. Just set that</p> <p>19 aside for a moment. If -- if that were true, would</p> <p>20 it also be true that none -- no representatives of</p> <p>21 any of the integrated poultry companies show up for</p> <p>22 these educational meetings or are asked to? Do you</p> <p>23 understand that?</p> <p>24 A Yeah, explain that. Do that again.</p> <p>25 Q Let me try it this way. These educational</p>
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<p>1 related -- like to the rules and regulations is</p> <p>2 related, and so they have nine little tests that</p> <p>3 they will do, and then after they see the</p> <p>4 presentation, they'll do another one.</p> <p>5 Q If I --</p> <p>6 A Hopefully they learned something.</p> <p>7 Q If I wanted to obtain a copy of the slide show</p> <p>8 or the Power Point presentation, who would I get</p> <p>9 that from? Who presents it, who's got it?</p> <p>10 A OSU.</p> <p>11 Q Oklahoma State University?</p> <p>12 A Oklahoma State University.</p> <p>13 Q Is there extension agents or whom?</p> <p>14 A Yes, I guess the extension agent, I don't know</p> <p>15 for sure, maybe over at Stillwater.</p> <p>16 Q Like can you give me the name of a person in</p> <p>17 one of the particular counties that would have this</p> <p>18 thing that I could go get if I wanted to?</p> <p>19 A Well, I can give you a name of the one that is</p> <p>20 in charge, I think right now, and that is Dr. Josh</p> <p>21 Payne.</p> <p>22 Q P-A-Y-N-E?</p> <p>23 A Yes, sir.</p> <p>24 Q At Stillwater?</p> <p>25 A I think his office is in Muskogee, but yes,</p>	<p>1 programs and educational requirements --</p> <p>2 A Yes.</p> <p>3 Q -- are for the growers?</p> <p>4 A That's right.</p> <p>5 Q So if there were no company managed farms that</p> <p>6 were also growers, would it be true that there would</p> <p>7 be no company representatives either asked to or who</p> <p>8 would show up for these educational meetings?</p> <p>9 MR. NANCE: Object to the form. You can go</p> <p>10 ahead and answer.</p> <p>11 Q (By Mr. Elrod) And then we'll talk about the</p> <p>12 company managed farms in a second.</p> <p>13 A Am I supposed to answer now?</p> <p>14 Q Yeah, go ahead.</p> <p>15 A Anyone can come to these meetings.</p> <p>16 Q Sure. But they don't --</p> <p>17 A But to my knowledge, to my knowledge --</p> <p>18 Q Yeah.</p> <p>19 A -- the ones that do not -- that are not</p> <p>20 registered with the Oklahoma Department of</p> <p>21 Agriculture as a poultry grower or an applicator,</p> <p>22 commercial or private, don't get an invite. I</p> <p>23 mean --</p> <p>24 Q Sure.</p> <p>25 A -- they don't get any information to come to</p>

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<p>1 these --</p> <p>2 Q Okay.</p> <p>3 A -- educational classes. There is some company</p> <p>4 men that has attend --</p> <p>5 Q Let me --</p> <p>6 A -- the education classes.</p> <p>7 Q Let me ask you about that. How many company</p> <p>8 managed, those are my words, company managed farm</p> <p>9 operations are there in your area?</p> <p>10 A Simmons.</p> <p>11 Q Okay.</p> <p>12 A Has some, and they have a gentleman and</p> <p>13 gentlemens that comes to the education classes --</p> <p>14 Q Okay. Anybody else?</p> <p>15 A -- regularly. No, sir, I don't think so, not</p> <p>16 in my area.</p> <p>17 Q Okay. And do you know how many Simmons</p> <p>18 company managed farms there are currently in your</p> <p>19 area?</p> <p>20 A There were 19 -- I'm not sure now because they</p> <p>21 have sold some of them.</p> <p>22 Q Uh-huh.</p> <p>23 A And I think it's like 13, but that's an</p> <p>24 approximate figure, I don't know for sure.</p> <p>25 Q Do you have any Hmong growers in your area,</p>	<p>1 went over and showed them what they meant and how to</p> <p>2 do it, and we had an interpreter there. The trouble</p> <p>3 with the interpreter was he didn't understand -- he</p> <p>4 could interpret what we said, but he didn't know</p> <p>5 what we meant, so we -- we had a long session, but I</p> <p>6 think it was good, most of them came, and so we've</p> <p>7 made efforts, and I spend a lot of time with them.</p> <p>8 Q Let me ask you some questions about sometimes</p> <p>9 it's difficult to -- I mean, we have to use words,</p> <p>10 right? I'm going to use the word typical. I want</p> <p>11 to try to probe with your mind about what your</p> <p>12 typical grower is like, what a grower profile would</p> <p>13 be. And by that I mean, things like does momma</p> <p>14 teach school and daddy work at the farm and they</p> <p>15 have two or three houses and 80 acres of land and</p> <p>16 some cattle? You know, what would you view the</p> <p>17 typical grower in northeast Oklahoma in your area to</p> <p>18 be like in that regard?</p> <p>19 A I think in most cases at least one of them</p> <p>20 will work off, different types of jobs. I don't</p> <p>21 know for sure what they do. I have several that --</p> <p>22 some of the older ones that they just work on the</p> <p>23 farm. They have cattle operations along with the</p> <p>24 poultry, and maybe haying operations, but they do a</p> <p>25 lot of other things besides just take care of</p>
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<p>1 H-M-O-N-G, I think, or it's M-H-O-N-G?</p> <p>2 A Yes.</p> <p>3 Q You do? What do you do about the language</p> <p>4 barrier?</p> <p>5 A You work on it.</p> <p>6 Q Do you speak HmOng?</p> <p>7 A No, no. I -- in most cases, they have someone</p> <p>8 that can speak pretty good English and you can</p> <p>9 understand them. On the telephone, it's difficult</p> <p>10 for me. I don't -- I don't -- my tone, I'm kind of</p> <p>11 tone deaf in some things and I don't understand very</p> <p>12 well. But when I'm talking face-to-face to them, I</p> <p>13 understand them pretty well.</p> <p>14 Q Okay.</p> <p>15 A And maybe the hardest part is whether they</p> <p>16 understand me or not, what the words are and what</p> <p>17 they mean.</p> <p>18 Q Does the State of Oklahoma make any effort to</p> <p>19 make sure that there's understandable communications</p> <p>20 between inspectors like you and growers who are</p> <p>21 Hmong?</p> <p>22 A Yes, sir, I think so. I -- I have personally</p> <p>23 set up some education classes and invited all the</p> <p>24 HmOngs to come and had another inspector with me</p> <p>25 that we sat down and took our inspection sheets and</p>	<p>1 poultry, either on the farm --</p> <p>2 Q Okay.</p> <p>3 A -- or off.</p> <p>4 Q What about the typical land size of a poultry</p> <p>5 farm in that area of the world; 40, 60, 80, 120, 500</p> <p>6 acres? We may end up playing this to a jury</p> <p>7 someday, and I want a jury from northeast Oklahoma</p> <p>8 to understand what the agricultural practices are</p> <p>9 like in your area of the world, and that's the</p> <p>10 reason I'm asking these questions. So what about</p> <p>11 the typical size of farm?</p> <p>12 A I think the typical size, you know, is in the</p> <p>13 neighborhood of a hundred. It depends on the</p> <p>14 counties, because some of the counties, you know,</p> <p>15 have larger land holdings, but probably a hundred,</p> <p>16 hundred and 50 acres, you know. I have a lot that</p> <p>17 doesn't have but 20, 30 acres. Several, I don't</p> <p>18 know the numbers, but several that just have poultry</p> <p>19 houses and get rid of their litter at home. They</p> <p>20 have never applied and they just sell their litter</p> <p>21 or give it away.</p> <p>22 Q Out of the 205 or 210 operations that you have</p> <p>23 responsibility for, can you give me a feel for what</p> <p>24 percentage of those also have cattle? And again,</p> <p>25 I'm not asking you to be precise, but I'd like to</p>

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<p>1 know whether it's 10 percent or 50 percent or 90</p> <p>2 percent.</p> <p>3 A I -- it's pretty high, 70 percent or so,</p> <p>4 probably.</p> <p>5 Q Okay.</p> <p>6 A Maybe higher than that.</p> <p>7 Q Would you agree that there is a symbiotic</p> <p>8 relationship between litter and cattle?</p> <p>9 A Yes.</p> <p>10 Q Okay. And by that, I can tell you what I</p> <p>11 mean. I mean the litter is spread on land for</p> <p>12 pasture growth and for hay production, and the</p> <p>13 cattle --</p> <p>14 A Cattle forage, yeah.</p> <p>15 Q Cattle forage, that's the typical relationship</p> <p>16 in --</p> <p>17 A I think so, I think it is.</p> <p>18 Q Okay.</p> <p>19 A That's just me.</p> <p>20 Q And based on your experience in the last nine</p> <p>21 years, you think that most of the growers are taking</p> <p>22 a responsible approach toward litter management?</p> <p>23 MR. NANCE: Object to the form. Go ahead.</p> <p>24 A Do what?</p> <p>25 MR. NANCE: You can go ahead and answer.</p>	<p>1 marked as Littlefield Exhibit 1. I need one myself.</p> <p>2 Mr. Littlefield, does this appear to you to be a</p> <p>3 copy of the Oklahoma Registered Poultry and Feeding</p> <p>4 Operations Act, the Oklahoma Poultry Waste Transfer</p> <p>5 Act, and the Oklahoma Poultry Waste Applicators</p> <p>6 Certification Act?</p> <p>7 A Yes, it is.</p> <p>8 Q All right, sir. And these are the Acts under</p> <p>9 which you operate?</p> <p>10 A Yes, sir.</p> <p>11 Q Look at 10-9.3, which should be the third</p> <p>12 page. It is true that under the Act in the ODAFF</p> <p>13 regs that one cannot construct a poultry house in</p> <p>14 Oklahoma without first seeking to have it registered</p> <p>15 with the Department of Agriculture?</p> <p>16 A Yes, sir.</p> <p>17 Q So it would be true that if the Department of</p> <p>18 Agriculture in Oklahoma chose to -- chose that there</p> <p>19 would be no new house construction in Oklahoma, it</p> <p>20 could do so?</p> <p>21 A I don't know.</p> <p>22 Q Has that issue ever been discussed between you</p> <p>23 and your elders at ODAFF?</p> <p>24 A No, sir.</p> <p>25 Q There's never been any discussion that you've</p>
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<p>1 Q (By Mr. Elrod) This is going to happen.</p> <p>2 A Ask that again.</p> <p>3 Q Do you think that based on your last nine</p> <p>4 years of experience in the northeast Oklahoma, that</p> <p>5 most of the growers are taking a responsible</p> <p>6 approach towards litter management?</p> <p>7 MR. NANCE: I object to the form of the</p> <p>8 question. You can answer it, John.</p> <p>9 A I -- excuse me, ma'am. I think -- I think so.</p> <p>10 I think more so now than they were early on, but</p> <p>11 yes, I think so.</p> <p>12 Q (By Mr. Elrod) Do you know of any growers in</p> <p>13 your area who you believe have a malicious intent to</p> <p>14 harm the waters of the state of Oklahoma?</p> <p>15 A No, sir, I do not.</p> <p>16 Q Okay. I've got a message that we need to take</p> <p>17 a break, so let's take five, 10 minutes.</p> <p>18 A All right.</p> <p>19 VIDEOGRAPHER: We are now off the record.</p> <p>20 The time is 10:22 a.m.</p> <p>21 (Following a brief recess at 10:19 a.m.,</p> <p>22 proceedings continued on the record at 10:31 a.m.)</p> <p>23 VIDEOGRAPHER: We are back on the record.</p> <p>24 The time is 10:35 a.m.</p> <p>25 Q (By Mr. Elrod) Let me hand you what I've</p>	<p>1 been involved in to the effect that maybe we ought</p> <p>2 to just stop issuing licenses for construction of</p> <p>3 new houses?</p> <p>4 A No, sir, I don't remember hearing that.</p> <p>5 Q Okay. And looking at 10-9.4, it's also true</p> <p>6 that one must reregister if the litter production is</p> <p>7 going to have a 10 percent increase from the amount</p> <p>8 of litter originally registered?</p> <p>9 A That's true.</p> <p>10 Q All right. Does that ever happen --</p> <p>11 A Yes, sir.</p> <p>12 Q -- in your experience? What are you seeing as</p> <p>13 the typical clean out time period in your area of</p> <p>14 Oklahoma; once a year, once every two years,</p> <p>15 cake-out between flocks? Explain what you know</p> <p>16 about that. Decade, I should have said.</p> <p>17 A When I started and the first several years it</p> <p>18 was once a year, and cake-out when it was needed,</p> <p>19 being maybe two or three, three or four times a</p> <p>20 year. In the last few years, I think the most</p> <p>21 typical is got longer to clean out, between clean</p> <p>22 outs, I'm talking about, and they do cake-out after</p> <p>23 every flock, primarily, most of them now, broiler</p> <p>24 houses. Some has gone as long as two or three, four</p> <p>25 years without cleaning out.</p>

12 (Pages 42 to 45)

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1 Q And --
 2 A Not many, but a few.
 3 Q And the reason for the length and the time
 4 between clean outs is what, in your opinion?
 5 A It's strictly my opinion because, you know, I
 6 don't -- I don't run their operation. But the
 7 shavings that they replenish, put back in the houses
 8 with the new chicks, is expensive, hard to get.
 9 They have got more expensive. That's one issue.
 10 The other issue is that some of the farmers, you
 11 know, like the idea of having some bedding in there
 12 as long as they keep it dry, keep it tilted.
 13 Probably the litter issue, the publicity and things
 14 like that, have caused some that's not interested to
 15 go through any headaches and problems, they just
 16 make it work as long as they can before they clean
 17 out.
 18 Q You don't believe chicken litter to be a
 19 hazardous waste, do you, sir?
 20 MR. NANCE: Object to the form. You can go
 21 ahead.
 22 A Well, my belief --
 23 MR. NANCE: And that it calls for a legal
 24 conclusion. Go ahead.
 25 Q (By Mr. Elrod) Go ahead.

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1 A No, I don't, not me. But I don't have any,
 2 you know, scientific proof, but I don't believe it
 3 is.
 4 Q Do you know of any instances yourself, in the
 5 last nine years, where anybody has suffered adverse
 6 human health effects from litter?
 7 A Again, that's just an opinion. I really don't
 8 know. I -- I've had some to say that they have on
 9 complaints. Knowing it for a fact, I don't.
 10 Q People who are not involved in the industry
 11 have asserted a complaint to the State of Oklahoma
 12 that they're wheezing and coughing or what?
 13 A That's what they've claimed.
 14 Q And we'd find those complaints in the ODAFF
 15 records if we were --
 16 A Whether it's caused health problems?
 17 Q Yeah, uh-huh.
 18 A Well, I would assume, yeah.
 19 Q And what was the result of your investigation
 20 of those particular complaints?
 21 A Well, they was incorporated with a lot of
 22 other things, odor and things. And health issues,
 23 if they went to a doctor I may, you know, have
 24 stated that in my report, that they saw a doctor or
 25 something, but I didn't know whether they did or

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1 didn't.
 2 Q And can you quantify these kinds of
 3 complaints? Out of the 30 or 40 you get a year, how
 4 many of those would include an assertion by the
 5 complainant that they're wheezing or coughing or
 6 whatever it is?
 7 A I don't know, one or two, two or three.
 8 Again, that's -- you know, you can get that from the
 9 complaints, but I don't know for sure.
 10 Q And hopefully --
 11 A Not many.
 12 Q Not very many? And these are all airborne
 13 type complaints as opposed to water contact
 14 complaints?
 15 A Yes, mostly, mostly airborne, I would think
 16 so.
 17 Q All right, sir. And if we are -- if we can
 18 find somebody on this side of the table that is
 19 patient enough to go through all the complaints at
 20 ODAFF one day, then that's where those complaints
 21 will show up and we'll be able to quantify them; is
 22 that true?
 23 A I would think so. I don't --
 24 Q If it ain't -- if it ain't in the records, it
 25 was not a complaint as far as you're concerned, is

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1 that what you testified to earlier?
 2 A Well, I don't know if I understand your
 3 question exactly, but I -- I only go out on
 4 complaints that is -- that has been called into the
 5 department --
 6 Q Okay.
 7 A -- and then they've called me.
 8 Q That's what I meant.
 9 A So those I go do investigate.
 10 Q Have you been involved in the last nine
 11 years -- I'm looking at 10-9.5 big C towards the
 12 bottom of the next page, talks about penalties and
 13 fines?
 14 A It's what now?
 15 Q Penalties and fines, F-I-N-E-S. Have you been
 16 involved in any situations at all in the last nine
 17 years where criminal charges were brought against
 18 somebody for violation of the Act?
 19 A Not to my knowledge, but I -- I don't have
 20 anything to do with that. I mean, that's done by
 21 our legal department, and I don't know that they
 22 would have an occasion to. If it was a grower in my
 23 area, they would -- I would think that they would
 24 let me know, but otherwise, they wouldn't have any
 25 reason to let me know if it was something else.

13 (Pages 46 to 49)

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<p>1 Q What is the most -- strike that. Looking at 2 the next page, maybe the page after that, I'm at 3 section 10-9.7 large B, top of the -- a couple of 4 pages over, are you with me? It talks about the 5 criteria for BMPs? 6 A Yes. 7 Q Are you aware of any growers in your area of 8 the state who are discharging poultry waste to the 9 waters of the state of Oklahoma? 10 A I'm not aware of any. 11 Q Okay. Will you agree with me that the Acts, 12 A-C-T-S, that we're looking at in Exhibit 1 are the 13 method by which the legislature and the governor of 14 the State of Oklahoma have decided to regulate the 15 use of poultry litter in Oklahoma? 16 MR. NANCE: Object as calling for a legal 17 conclusion. You can go ahead, if you know. 18 A I -- I really don't -- I don't know that -- 19 exactly what they were after, I don't -- 20 Q (By Mr. Elrod) But -- but these are the Acts 21 that we're looking at here -- 22 A Yes. 23 Q -- that control -- 24 A Yes. 25 Q -- the management of the poultry litter in</p>	<p>1 A Corn. 2 Q Okay. And to your knowledge, do row crops in 3 northeast Oklahoma receive chicken litter, poultry 4 litter? 5 A How many row crops? 6 Q Do they? 7 A Do they? 8 Q Uh-huh. 9 A There's a few that do. There's a few that 10 uses poultry litter on the row crops. 11 Q That would be atypical, though, wouldn't it, 12 it's not very common? 13 A It's not very common. 14 Q Most of it would be spread on Bermuda grass 15 and fescue pastures for hay production and forage 16 production for beef cattle? 17 A In my area, yeah, I think that's right. 18 Q Okay. In your view, given your nine years of 19 experience in the field, what would happen to cattle 20 production in northeast Oklahoma if all the litter 21 was pulled out, if there was no chicken litter? 22 MR. NANCE: Object to the form. Go ahead. 23 A I -- you know, I couldn't answer that for sure 24 because there's no way that I would know, although I 25 think in the past that it has helped some of the</p>
Page 51	Page 53
<p>1 Oklahoma? 2 A Yes. 3 Q And because they're Acts in the legislature, 4 they would have had to have been passed by the 5 Oklahoma legislature and then signed by the governor 6 to become law; is that true? 7 A I -- I think so. 8 Q Did you take eighth grade civics? 9 A Yeah. 10 Q Let's move back to the characterization of 11 agriculture in northeast Oklahoma, if we could for a 12 second. We've talked about cattle and poultry and 13 the fact that the two are often mixed on the same 14 farm; is that right? 15 A Yes, sir. 16 Q Is there also new row crop production in 17 northeast Oklahoma in your area? 18 A Yes, there is some. 19 Q Consisting of soybeans? 20 A Yes. 21 Q Green beans? 22 A Yes. 23 Q Anything else that you know of? 24 A Wheat. 25 Q Okay.</p>	<p>1 farms. 2 Q (By Mr. Elrod) And will you agree with me 3 that the location of the application of chicken 4 litter, and so long as you are complying with your 5 animal waste management plan, the rate of 6 application of chicken litter are decisions that are 7 made by either commercial applicators or the growers 8 themselves and not by other companies? 9 A I think that's true. 10 Q Okay. Are you familiar with the cooperative 11 agreement between the Department of Agriculture and 12 the Oklahoma Attorney General's Office? 13 A No, I'm not acquainted with any. 14 Q You just saved yourself 15 minutes. 15 A Good. 16 Q Do you agree with Secretary Peach that the 17 Oklahoma Department of Agriculture has no concern 18 about arsenic runoff from chicken litter? 19 A Well, I don't know what Commissioner Peach has 20 said. 21 Q Well, let me represent to you that on page 56 22 of the deposition he gave last year in another case, 23 that that was his testimony. Have you ever heard 24 any concern voiced outside of this lawsuit about 25 arsenic in chicken litter being run off into the</p>

14 (Pages 50 to 53)

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1 water?
 2 A No, I haven't.
 3 Q Okay. Now, I want to turn to a May 3, 2005
 4 meeting that you -- I think you attended along with
 5 Secretary Peach with certain growers. Does that
 6 name -- does that date ring a bell?
 7 A When is this date?
 8 Q May 3, 2005. I think there was a meeting
 9 between Secretary Peach and you, and perhaps Dan
 10 Parrish, and a lawyer here in Tulsa, and five or six
 11 growers who had been selected to be -- have sampling
 12 done on their property, do you remember that?
 13 A Yeah, I -- I remember having a meeting. I
 14 don't know if that's the same one or not because I
 15 don't remember the dates. Was it at Little Kansas
 16 at the --
 17 Q I think so.
 18 A -- at the vo-tech school?
 19 Q Yes, sir.
 20 A Okay.
 21 Q All right.
 22 A Yes, sir.
 23 Q You've got the meeting in mind now?
 24 A Yes, I do.
 25 Q All right. Who all was there, as best you can

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1 recall?
 2 A Oh, my.
 3 Q Just give it your best shot.
 4 A Well, Commissioner Peach, of course, was
 5 there. There was several -- several growers that
 6 had been contacted to do testing on their land were
 7 there. There was -- I remember -- I don't remember
 8 who it was, but I remember somebody telling me that
 9 there was an attorney from one of the poultry
 10 companies there. There was people from the
 11 partners, Poultry Partners Group there.
 12 Q What was the purpose --
 13 A Of course, myself.
 14 Q Yeah. And what was the -- and what was the
 15 purpose of the meeting? Who called the meeting?
 16 A I believe Commissioner Peach did.
 17 Q Okay. And what was the purpose? Had their
 18 been a protest on the part of the growers?
 19 A Yes, there had.
 20 Q Okay. And what was the protest?
 21 A They -- they wasn't interested in letting us,
 22 as myself and another person, to do soil testing on
 23 their land.
 24 Q Okay. Was this a special situation outside of
 25 your normal regulatory activities?

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1 A Yes, I'd say so.
 2 Q Okay. And the purpose of this meeting was to
 3 hear their concerns and try to reach a resolution;
 4 is that fair?
 5 A I think that is.
 6 Q Okay. I put in front of you a document which
 7 I've marked as Littlefield Exhibit 2, which is a
 8 memorandum dated May 18, 2005 from Mr. Parrish, I
 9 guess to the file, and we'll -- we'll refer to
 10 this -- here's another one, but -- and maybe you can
 11 use that to refresh your recollection of things that
 12 were discussed at the meeting. How long did the
 13 meeting take place?
 14 A Hour-and-a-half maybe.
 15 Q And --
 16 A Approximately.
 17 Q Was everybody courteous or were there raised
 18 invoices?
 19 A No, everybody was courteous.
 20 Q Okay. And the purpose of the sampling that
 21 was being addressed at that meeting was for the
 22 Attorney General's expert consultants in this case
 23 to obtain and analyze certain materials from farms
 24 of the Deselected growers; isn't that true?
 25 A I -- I don't -- I can't say that for sure, I

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1 don't know. All I was told was I was given a list
 2 of growers to do some special testing.
 3 Q Okay.
 4 A And I don't know, you know, I can't read
 5 anybody else's mind about it.
 6 Q Was it a lawyer that gave you those parameters
 7 to be tested, David Page?
 8 A I believe it came from a lawyer. I'm not
 9 sure. It might have come from Dan, but I don't
 10 think it did. I think it came from attorneys.
 11 Q Does it --
 12 MR. NANCE: Here's the point where I'll
 13 object to anything told him by attorneys on the case
 14 as attorney-client privilege and work product.
 15 MR. ELROD: Okay.
 16 Q (By Mr. Elrod) Have you attended any meetings
 17 to find out about the meetings, have you attended
 18 any meetings with Mr. Page, Mr. Nance or any other
 19 lawyer working on this case? That's the question.
 20 MR. NANCE: That's a yes or no question.
 21 Have you attended meetings with lawyers?
 22 A Meeting.
 23 MR. NANCE: You might add Mr. Hammonds and
 24 Ms. Stewart to that list.
 25 Q (By Mr. Elrod) Sure.

15 (Pages 54 to 57)

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1 A Well, yeah, I -- I met with some.
 2 Q Okay. Now, I'm not going to ask you about
 3 any -- did you meet with them to prepare for this
 4 deposition?
 5 A Yes.
 6 Q Okay. I don't want to know anything about
 7 that, okay? I don't think I want to know anything
 8 about that. Somebody else might, I don't. But the
 9 question on the table is, were there other meetings,
 10 besides getting prepared for this deposition, at
 11 which lawyers for the State of Oklahoma were
 12 present?
 13 A Early on there was.
 14 Q Okay. Early on being?
 15 A When they first gave us a list of growers to
 16 go out and do some soil testing on.
 17 Q Okay. And that would have been sometime
 18 shortly before May 3, 2005, shortly --
 19 A I don't know the date.
 20 Q -- I mean within weeks; is that true?
 21 A Yes, it would be before this meeting date that
 22 we had.
 23 Q All right. There was a planning meeting, is
 24 that fair, to obtain these soil samples?
 25 A I'm thinking it was.

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1 Q All right.
 2 MR. ELROD: Now, are you claiming privilege
 3 on that, Bob?
 4 MR. NANCE: Yes.
 5 Q (By Mr. Elrod) Okay.
 6 A That's what I felt like it was.
 7 Q Okay. I'm just trying to find out how many
 8 meetings there were with lawyers, without asking you
 9 what was said during those meetings, okay? Any
 10 other meetings with lawyers other than the ones we
 11 just got through talking about?
 12 A No.
 13 Q Now, you've already used the word special in
 14 regard to this proposed sampling, and I think we
 15 agreed that -- what are you smiling about?
 16 A Nothing, nothing.
 17 Q It's okay to smile.
 18 A I thought maybe I shouldn't have said special.
 19 Q No, it was the correct word. It was special,
 20 wasn't it? It was out of the ordinary?
 21 A Yes, it was.
 22 Q All right. And it was obviously being done in
 23 conjunction with the lawsuit that we're lawyering
 24 about here today; correct?
 25 A I think so.

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1 Q All right. Now, back to this May 3, 2005
 2 meeting. Were there concerns about the constituents
 3 that were to be tested for?
 4 A Concerns about what?
 5 Q What constituents were going to be tested for?
 6 A With me, there wasn't any talk about that,
 7 they was -- I was just to get the dirt.
 8 Q Get the dirt. Okay. And it was just going to
 9 be dirt samples, not litter samples or water
 10 samples?
 11 A No, it was going to be -- it was going to be
 12 litter, also.
 13 Q Okay. What about water?
 14 A Didn't mention water to me.
 15 Q Now, there came a time in October of 2005, did
 16 there not, when administrative warrants were
 17 obtained from Judge Hainey to go do sampling on some
 18 of these growers of ours?
 19 A I don't know who the warrants were from now.
 20 I do know that they -- they did have some.
 21 Q To your knowledge, what happened between the
 22 meeting in May of 2005 and the warrants being issued
 23 in October of 2005 that required administrative
 24 warrants as opposed to simply an agreement that
 25 we're going to come do this? Why did you have to

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1 obtain the warrants?
 2 A Well, I don't know why the warrants, myself, I
 3 wasn't involved in that part of it, but I went to
 4 the farms. The very first farm we went to did not
 5 want me to take soil tests on their farm.
 6 Q Is that the Reeds?
 7 A That was the Reeds. And we spoke for a few
 8 minutes, and I -- I left and --
 9 Q And Mrs. Reed was there, but Mr. Reed was not?
 10 A That's exactly right.
 11 Q Did she appear to be a little concerned or
 12 frightened?
 13 A Yes, she did.
 14 Q Because all of a sudden people showed up with
 15 something called administrative warrants early in
 16 the morning on her farm?
 17 A Well, it wasn't warrants at that time. That
 18 was just volunteer. There was no warrants.
 19 Q Yeah, you're right. I'm sorry, I'm wrong.
 20 A That was just volunteer.
 21 Q Warrants were obtained as a result of
 22 non-cooperation by the growers?
 23 A That's -- that's correct, I think.
 24 Q Now -- you're correct. What do you recall her
 25 saying to you at that time?

16 (Pages 58 to 61)

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<p>1 A Well, she told me that her husband wasn't 2 there at the time, and she said, I don't want you to 3 do anything, John, until he gets here. And then she 4 asked questions about who the people were on the 5 road and -- 6 Q How many people -- 7 A -- why we were there. 8 Q How many people -- excuse me, go ahead. How 9 many people were there? 10 A There was three there when I went to her house 11 to talk to her about it, there was three of us that 12 went there. 13 Q You and who else? 14 A David Berry and Randy Thompson. They stayed 15 in the truck, they didn't go up to the door with me. 16 Q How many vehicles were there? 17 A Well, just mine -- well -- 18 Q I got the impression that somebody from the 19 consulting firm of Camp, Dresser & McKee was also 20 there? 21 A They had vehicles there, they were there, out 22 in the road. 23 Q So from her perspective, if you looked out 24 from her gate, and what would she have seen? She'd 25 see your vehicle and you, and two other men in your</p>	<p>1 A I don't remember -- I don't know if David 2 Page -- I can't put a face to that name, so I 3 don't -- 4 Q What about just the notion of a lawyer, was 5 there a lawyer there? 6 A You know, I don't know for sure. I don't know 7 if those guys were attorneys or not. I don't know. 8 Q Did you have similar experiences at any other 9 grower's property that day or on any other days, 10 meaning that the same scenario played out? 11 A Well, the other places that we went to told us 12 that they didn't want us to do soil testing on their 13 land. 14 Q Now, in terms of your normal inspection 15 activities, which you've testified sometimes will 16 include soil tests, have you ever been told that by 17 any grower before? 18 A No. 19 Q Okay. So would it be true that the growers 20 understood that this was a "special situation"? 21 A Yes. 22 MR. NANCE: Object to the form, but you can 23 answer. 24 A I already did. Yes. 25 Q (By Mr. Elrod) Okay.</p>
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<p>1 vehicle; correct? 2 A Yeah, we drove up to her house. It's probably 3 a hundred yards from the road. 4 Q And everybody else stayed away? 5 A And everybody else stayed on the county road. 6 Q And how many other elses were there? 7 A Four, three or four. 8 Q Three or four other people? 9 A Yes. 10 Q And how many vehicles were they in? 11 A I believe it was three. 12 Q And what time of the morning was it? 13 A I don't remember for sure, but I think around 14 9:00, 8:00 or 9:00. 15 Q And the game plan was that you and Randy 16 Thompson, and who was the other person? 17 A David Berry. 18 Q David Berry, would actually go onto the 19 property and obtain the samples, and then you would 20 come back and deliver the dirt and the litter 21 samples to Camp, Dresser & McKee representatives; 22 true? 23 A That's true. 24 Q And was lawyer David Page or any other lawyer 25 hanging around with Camp, Dresser & McKee?</p>	<p>1 A I'm sorry. 2 MR. NANCE: That's all right. 3 Q (By Mr. Elrod) You don't do this for a 4 living, do you? 5 A No, I don't. Thank God. 6 Q How many other growers did you have similar 7 experiences with besides the Reeds? 8 A I don't remember the -- all exact numbers. 9 There were six or eight of them that David and I -- 10 there were some in his area in Cherokee County that 11 we visited with different days, not the same day, 12 and it was before we went to Reeds' farm, and I went 13 with him in his area to his farms, and he went to -- 14 with me to mine. 15 Q Had you ever done that before? 16 A No. Except we help one another, you know, we 17 help one another sometimes soil sample or do a 18 complaint or something together. 19 Q I think we've already discussed this, but 20 you'll agree with me that the Acts under which you 21 operate are all directed at the grower and not at 22 the company integrators? 23 MR. NANCE: Object as calling for a legal 24 conclusion. 25 Q (By Mr. Elrod) Unless -- unless the company</p>

17 (Pages 62 to 65)

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1 integrator also happens to be a grower?
 2 A Ask that again.
 3 Q Your activities are directed at the growers
 4 not at the companies that contract --
 5 A Yes, yes, I think so.
 6 Q Okay. And you testified that you occasionally
 7 take soil samples. Could you give me a feel for
 8 what percentage of your samples show an STP over
 9 400?
 10 A Except for the Eucha-Spavinaw watershed,
 11 and -- and then recently the Illinois watershed,
 12 it's 400 phosphorus level.
 13 Q Right.
 14 A And not many of those that I know of that I
 15 did the sampling that had over 400. That was
 16 usually on a complaint that I would do. We did
 17 random -- I mean not should tell, I don't know what
 18 I'm supposed to say, but we did random sampling one
 19 year, just picked out 25 growers and went and did
 20 their sampling.
 21 Q Was that the event where about 15 percent of
 22 the samples were over 400?
 23 A Yes, I think that's the same time. I'm not
 24 sure about that, but three of mine, I think three,
 25 the best of my memory is that there was three of

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1 mine that I picked that I knew was over 400, but I
 2 wanted to do a thorough sampling to see if it had
 3 come down, the phosphorus level, because I'd had one
 4 earlier. I wanted to see how fast it came down, and
 5 also to find out maybe if they were still putting
 6 poultry litter on.
 7 Q What did you find out?
 8 A I found out it was coming down, but it was
 9 still over 400. So three of those I knew going in
 10 that they were over 300 or 400 when I went in, and
 11 300, because there was a couple of them that were in
 12 the Eucha watershed.
 13 Q Can you give me a quick feel for how much they
 14 had dropped?
 15 A No, I can't because I can't remember exactly,
 16 but --
 17 Q How many random samples did you take?
 18 A We did 25 in each -- I think each grower did
 19 in his area, I know we 25 of them.
 20 Q Twenty-five growers?
 21 A Twenty-five different growers, yes.
 22 Q Times whatever number of samples were
 23 necessary for each grower in order to get a good
 24 mix?
 25 A Well, yes. We usually just picked one field

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1 in particular and we just sampled it, and to do a
 2 thorough sampling, you know, you need a lot of cores
 3 and mix them.
 4 Q Sure.
 5 A That's the way we --
 6 Q What's your view on the appropriate depth for
 7 sampling?
 8 A Well, OSU's protocol for us was six inches.
 9 Q Uh-huh. Okay. My understanding of your
 10 testimony, I want you to correct me if I'm wrong,
 11 was that you did sampling randomly at 25 different
 12 farms, and I think your testimony was -- well, you
 13 tell me, how many of those farms had STPs over 400?
 14 A I don't know exactly how many of those are
 15 mine. Seemed like -- you know, I don't -- I can't
 16 remember the number. That -- that number will be at
 17 the office, I'm sure, in some of the files, you
 18 know, if they're still in business. I can't
 19 remember. But that period, there may have been four
 20 or five, I don't know for sure.
 21 Q Okay.
 22 A But I do know that I picked, I think it was
 23 three that I knew that was over what their
 24 phosphorus level was supposed to be just to find out
 25 if they -- if it was going down.

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1 Q And over 400 means you can't apply, cannot
 2 apply; true?
 3 A Outside the Eucha-Spavinaw watershed, yes,
 4 sir, or the nutrient limited watershed outside it.
 5 Q What's the current number in the Illinois
 6 River basin?
 7 A It's 300 now --
 8 Q Just like Eucha?
 9 A -- nutrient limit. That's right.
 10 Q So your best recollection is out of the 25,
 11 there were three or four, is that what you said?
 12 A Yeah, that's what I -- there was three -- at
 13 least three of them that I knew going in most likely
 14 would be over, because I just wanted to find out if
 15 they were going down. There might have been another
 16 one that was over 400, 300 or 400, I -- I don't
 17 remember.
 18 Q Do either you or, I guess Randy Thompson would
 19 be in the Cherokee County?
 20 A No, David -- David Berry.
 21 Q David Berry, Cherokee County, have any
 22 inspection jurisdiction over nurseries?
 23 A Do we have inspection jurisdiction?
 24 Q Over nurseries?
 25 A No, I don't.

18 (Pages 66 to 69)

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1 Q Okay. Let me hand you what I've marked as
 2 Littlefield 3, if I can find one for myself. What
 3 is this?
 4 A Did you ask me something?
 5 Q Yes. What is this?
 6 A What is this?
 7 Q Uh-huh.
 8 A This was a letter that Dan sent to Jimmy
 9 Hollenbeck.
 10 Q Is he related to Jason Hollenbeck, by any
 11 chance?
 12 A Yes, this Jimmy here is his dad.
 13 Q Okay. And for the record, tell us who Jason
 14 Hollenbeck is.
 15 A Jason Hollenbeck was the OSU Extension
 16 director for Delaware County until the last six
 17 months or so.
 18 Q What's he doing now, if you know?
 19 A I don't know for sure. I know he still runs
 20 cattle.
 21 Q Okay. Jason or Jimmy?
 22 A Jason and Jimmy both, but Jason does.
 23 Q So Jimmy is the dad and Jason is the son,
 24 Jason --
 25 A That's right, and there's also a Jimmy, Jr.,

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1 there's another Jimmy.
 2 Q Now, it is true that -- I assume this October
 3 10, 2002 letter would be one of many, this is just a
 4 sample of the typical letter that goes out?
 5 A This was during the period of time when we
 6 took those random samples.
 7 Q Okay. And the point is that the State can
 8 take samples through its regulatory authority any
 9 time it wants to under the Act; correct?
 10 A Well, I don't know. You know, I can't address
 11 that for sure because I'm not legal minded, I'm not
 12 legal educated, but my thinking is that we can,
 13 especially if it's a complaint, I know that we can.
 14 Q Does Jimmy Hollenbeck run -- does he have
 15 poultry?
 16 A He has poultry and -- and cattle.
 17 Q Just out of curiosity, where he is located out
 18 of Spavinaw, do you know?
 19 A Yeah, he's --
 20 Q Is he up top?
 21 A Do what?
 22 Q Is he up top? He's up above Lake Spavinaw?
 23 A Well, he's -- yes, he's up above, I guess you
 24 would say.
 25 Q Is he just off the road from Salina to the

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1 dam?
 2 A No.
 3 Q Okay.
 4 A He's off the road between Spavinaw and Jay on
 5 Highway 20.
 6 Q Okay. That's right where the watershed
 7 breaks, isn't it?
 8 A Yes, sir, it is.
 9 Q You go north to Grand and south to
 10 Eucha-Spavinaw; correct?
 11 A Yes.
 12 Q Which side is he on; both?
 13 A Yes, he probably has some on both. I know he
 14 has some on Grand.
 15 Q I've marked this as Littlefield 4. Can you
 16 tell us what this is, please?
 17 A This is a -- a request from Dan that I do a
 18 soil and get a litter test from one of the growers.
 19 Q Now, would this request have come to you
 20 because somebody had a complaint or is this standard
 21 operating procedure?
 22 A That I don't know for sure. I don't know.
 23 Q Here's what -- that's not very artfully asked.
 24 Is it typical that John Littlefield, on his own,
 25 decides he's going to go take soil samples and

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1 litter samples, or is it typical that Dan Parrish
 2 tells John Littlefield to go take soil samples,
 3 litter samples?
 4 A Dan Parrish tells me.
 5 Q Every time?
 6 A No. There's been times that I have thought
 7 that it was necessary because of my question in my
 8 mind, and I've asked -- we've called Dan and see if
 9 that was proper.
 10 Q Well, is it true, then, that in order for you
 11 to go take one soil or litter, that either you have
 12 to ask Dan, tell him you want to do it and he says,
 13 yeah, go do it, or he tells you to go do it?
 14 A I think that's true.
 15 Q Okay. You're not a free agent capable of
 16 doing whatever John Littlefield wants to do without
 17 Dan Parrish's blessing? And I don't mean that in a
 18 derogatory manner.
 19 A No, I don't either, I do have a job.
 20 Q And I just want to understand the system.
 21 A Yes, I think that's -- that's proper.
 22 Q Okay.
 23 A I mean, I go do testing at his request.
 24 Q Okay. Let me ask you what you know, if
 25 anything, about some State of Oklahoma related

19 (Pages 70 to 73)

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<p>1 people who have asked for and received poultry 2 litter for use -- for land application use through 3 the BMPs program. Do you know an ODAFF employee 4 named Gary Bledsoe? 5 A Yes, sir, I know him. 6 Q Wellston, Oklahoma? 7 A Yes, sir. 8 Q Where is Wellston? 9 A That's between Oklahoma City and Tulsa. 10 Q Okay. And were you aware that Mr. Bledsoe has 11 requested, received and land applied chicken litter 12 through the BMPs Transportation Program? 13 A Yes, sir. 14 Q He's discussed that with you or how did you 15 know? 16 A No. I just -- I just heard him talking or 17 telling someone, or he could have been telling me, I 18 can't remember for sure. 19 Q What do you recall him saying about that? 20 A What was that? 21 Q What do you recall him saying about that? 22 A That he was going to or did apply some litter. 23 Q Do you know how much he applied? 24 A No, I do not. 25 Q Do you know a fellow named Mike Thralls, the</p>	<p>1 Q What do you recall him saying about that? 2 A That he was putting litter on his farm. 3 Q Do you know how big a farm it is and how much 4 litter? 5 A No, sir, I do not. 6 Q What about Marty Green's father, Jerry Green, 7 also of Muldrow, Oklahoma, are you aware that he 8 requested, received and land applied chicken litter 9 through the BMPs program? 10 A No, I did not. 11 Q What about Oklahoma NRCS District 12 Conservationist Anthony Lawrence of Checotah, 13 Oklahoma, do you know that person? 14 A No, I do not. 15 Q What about OCC Commissioner Rick Jeans, do you 16 know Mr. Jeans, J-E-A-N-S, of Blackwell, Oklahoma? 17 A No, sir. 18 Q And what about -- then you wouldn't know Rick 19 Jeans' father, Don Jeans, also of Blackwell? 20 A No. 21 Q So you wouldn't know whether he's requested, 22 received and land applied chicken litter through the 23 BMPs program? 24 A No. 25 MR. ELROD: All right. We've got five</p>
Page 75	Page 77
<p>1 director of the OCC? 2 A Yes, I do. 3 Q Okay. Were you aware that his father, Rex 4 Thralls, requested, has received and land applied 5 chicken litter through the BMPs program? 6 A I was not aware of that. 7 Q What about Mike Thralls himself, are you aware 8 that Mr. Thralls has requested, received and land 9 applied chicken litter through the BMPs program? 10 A I didn't know that. 11 Q Did you know he's applied or has applied? 12 A Yes, I knew that. 13 Q Do you know where his farm is located? 14 A No, I do not. 15 Q What about OSU Extension agent Marty, 16 M-A-R-T-Y, Green of Muldrow, Oklahoma, do you know 17 whether Marty -- I don't know whether Marty is a man 18 or a woman, quite frankly. 19 A No, he's a man. 20 Q You know him then. Do you know that he's 21 received, requested and received and land applied 22 chicken litter through the BMPs program? 23 A Yes, sir. 24 Q How did you know that? 25 A I just heard him talking.</p>	<p>1 minutes and it's time for another break, and I'm 2 going to be through pretty shortly. Thank you. 3 VIDEOGRAPHER: We're now off the record. 4 The time is 11:30 a.m. 5 (Following a brief recess at 11:26 a.m., 6 proceedings continued on the record at 11:36 a.m.) 7 VIDEOGRAPHER: We are back on the record. 8 The time is 11:39 a.m. 9 Q (By Mr. Elrod) Where am I at, 5? I've marked 10 as Littlefield Exhibit 5 that piece of paper. Would 11 you tell us what this is, please? What is that, Mr. 12 Littlefield? I mean, what's the form? 13 A This is an application, private annual report 14 that the private applicators have to fill out and 15 send in. 16 Q And this is a standardized form created by 17 ODAFF for that purpose; is that true? 18 A Yes, sir. 19 Q Are you copied on these for the ones that are 20 in your area? 21 A Am I what? 22 Q Are you copied on these for the ones that are 23 in your area? Do they go directly to the State 24 or do they -- 25 A No, they go directly to the State. I'm sorry,</p>

20 (Pages 74 to 77)

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<p>1 I didn't understand.</p> <p>2 Q Are you kept abreast of them, though, or do</p> <p>3 you ever see them other than at depositions?</p> <p>4 A Yes.</p> <p>5 Q Okay. So how do you -- do you get a copy from</p> <p>6 the State?</p> <p>7 A No, I do not.</p> <p>8 Q How do you happen to see these?</p> <p>9 A They ask me for assistance a lot of times. We</p> <p>10 also have them available if they don't have them so</p> <p>11 that we can give them one, and at educational</p> <p>12 classes that I helped in, this is some of the things</p> <p>13 that we went over.</p> <p>14 Q Littlefield 6 is what? What is that?</p> <p>15 A Well, this is a letter that he gets -- anybody</p> <p>16 that applies for a license, a poultry application</p> <p>17 license gets.</p> <p>18 Q Do you know of any situation where an</p> <p>19 applicant has been denied?</p> <p>20 A I wouldn't know because all of them -- I don't</p> <p>21 have privy to all of them, but I don't know of any</p> <p>22 in my area.</p> <p>23 Q But in order to receive an applicator's</p> <p>24 license, one has to make an application to the</p> <p>25 Oklahoma Department of Agriculture?</p>	<p>1 A Yes.</p> <p>2 Q -- have a lot more information and a lot more</p> <p>3 pages; correct?</p> <p>4 A Yes.</p> <p>5 Q Did the Oklahoma Department of Agriculture</p> <p>6 create this form that's used for animal waste</p> <p>7 management plans?</p> <p>8 A I don't have -- I don't know. I don't know</p> <p>9 whether they did or not.</p> <p>10 Q The reason I ask that is they seem to be</p> <p>11 standardized, all the ones I'm looking at. Is that</p> <p>12 your view, that they're set up the same?</p> <p>13 A Well, there's certain information that is</p> <p>14 supposed to be in them according to, I think our</p> <p>15 statutes, so those items is supposed to be --</p> <p>16 Q For example, let me mark as 8 yet another one</p> <p>17 that seems to be more complete in the sense that</p> <p>18 it's thicker. The one I'm handing you --</p> <p>19 A Yeah.</p> <p>20 Q -- now is for a person named Jeff Andrews, and</p> <p>21 the previous one was an individual named Lyle</p> <p>22 Becker; correct?</p> <p>23 A That's right.</p> <p>24 Q You'll notice that the format --</p> <p>25 A The same.</p>
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<p>1 A That's right.</p> <p>2 Q And in consideration, the application is made</p> <p>3 at the Department of Agriculture, and then per this</p> <p>4 letter, this particular one was granted?</p> <p>5 A That's right.</p> <p>6 Q That's the way that system works?</p> <p>7 A Yes, sir. It would also have nine hours,</p> <p>8 initial nine hour education on it if it hadn't</p> <p>9 been -- if it was somebody that was not a grower,</p> <p>10 because the applicators are required to have nine</p> <p>11 hours' education also, the initial nine hours. But</p> <p>12 if they're growers, they've already gotten it, and</p> <p>13 they have to just continue on.</p> <p>14 Q Let me hand you what I've marked as</p> <p>15 Littlefield 7. Is this a copy of an animal waste</p> <p>16 management plan?</p> <p>17 A Yes, sir.</p> <p>18 Q Okay.</p> <p>19 A Not a very good one.</p> <p>20 Q Why is that?</p> <p>21 A Well, it's not as complete as a lot of them</p> <p>22 are.</p> <p>23 Q I've got a big stack of them here, but I don't</p> <p>24 want to encumber the records with others. But just</p> <p>25 as an example, there are others that --</p>	<p>1 Q -- and even the font or the typing is the same</p> <p>2 between the two?</p> <p>3 A Yeah.</p> <p>4 Q So once again, even though the plans</p> <p>5 themselves may have been created by different</p> <p>6 people, the format is created by the Oklahoma</p> <p>7 Department of Agriculture, isn't it?</p> <p>8 A I don't -- I don't know that for sure. These</p> <p>9 come from the NRCS office, so I don't know that --</p> <p>10 Q So it could be that the NRCS creates the form?</p> <p>11 That would be --</p> <p>12 A I guess it could be, I don't know.</p> <p>13 Q That would be more likely, I guess, wouldn't</p> <p>14 it?</p> <p>15 A Yeah.</p> <p>16 Q I'm interested in the first paragraph. It</p> <p>17 says, "This animal waste management plan includes</p> <p>18 the production, handling and distribution of animal</p> <p>19 waste in a manner that prevents or minimizes</p> <p>20 degradation of soil, water, air, plants and animal</p> <p>21 resources," do you see that language?</p> <p>22 A Yes, I do.</p> <p>23 Q Do you happen to personally agree with that</p> <p>24 notion?</p> <p>25 A Well, I'm not technical enough to know for</p>

21 (Pages 78 to 81)

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<p>1 sure, but yes, I -- my personal opinion is that I</p> <p>2 thought that it -- it helps minimize the problems.</p> <p>3 Q Okay. Let's see, am I at 9 now? I have a</p> <p>4 good memory, but it's a very short memory.</p> <p>5 A Yeah, I've got that.</p> <p>6 Q I'm handing you 9. What is this?</p> <p>7 A This is an inspection checklist that they had</p> <p>8 back in the office, and what's attached to it is an</p> <p>9 inspection that I did on Mr. Morgan.</p> <p>10 Q So is this the form that's used by you in</p> <p>11 doing your annual inspections?</p> <p>12 A Yes, sir, it is.</p> <p>13 Q And are you careful about following the</p> <p>14 checklist, as every good inspector should be?</p> <p>15 A Yes, yes, I would try to.</p> <p>16 Q Would it be typical that you would also do</p> <p>17 anything in addition to what's on the checklist on</p> <p>18 the front page?</p> <p>19 A No, I don't think so.</p> <p>20 Q 10? I've marked this document as Littlefield</p> <p>21 10. This is a letter dated February 9, 2004 to</p> <p>22 someone named Truman and Pat Bingham, B-I-N-G-H-A-M,</p> <p>23 of Jay, Oklahoma by the signature of Dan Parrish; is</p> <p>24 that true?</p> <p>25 A Yes.</p>	<p>1 expansion --</p> <p>2 A Or increases, no, I do not.</p> <p>3 Q But will you agree with me that it's clear</p> <p>4 that there is a "review" by someone?</p> <p>5 A Someone, yeah.</p> <p>6 Q It says that, doesn't it?</p> <p>7 A Yeah, someone.</p> <p>8 MR. ELROD: I'm going to give you back</p> <p>9 seven minutes. It's seven until 12. I'm through,</p> <p>10 and I think what we'd like to do is take a lunch,</p> <p>11 and then if other people have questions -- I think</p> <p>12 there are going to be some questions, are there not?</p> <p>13 MR. McDANIEL: Uh-huh.</p> <p>14 MR. ELROD: Okay. Mr. Littlefield, it's</p> <p>15 been a pleasure to spend time with you and I</p> <p>16 appreciate your being patient with me.</p> <p>17 A Thank you.</p> <p>18 MR. ELROD: Thank you.</p> <p>19 VIDEOGRAPHER: We are now off the record.</p> <p>20 The time is 11:53 a.m.</p> <p>21 (Following a lunch recess at 11:50 a.m.,</p> <p>22 proceedings continued on the record at 12:59 p.m.)</p> <p>23 VIDEOGRAPHER: We are back on the record.</p> <p>24 The time is 1:03 p.m.</p> <p>25 DIRECT EXAMINATION</p>
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<p>1 Q And is this -- and you're copied; right?</p> <p>2 A Yes.</p> <p>3 Q Is this typical of the format of the letter</p> <p>4 approving expansion of poultry operations under the</p> <p>5 Oklahoma law and regs?</p> <p>6 A I think this is an increase.</p> <p>7 Q Right.</p> <p>8 A This is where there was a 10 percent increase</p> <p>9 in numbers. They changed integrators.</p> <p>10 Q Right.</p> <p>11 A Yes, I think this is --</p> <p>12 Q This is typical of the format?</p> <p>13 A I think so.</p> <p>14 Q This particular one says, please be advised</p> <p>15 that the Oklahoma Department of Agriculture Food and</p> <p>16 Forestry Water Quality Services received a</p> <p>17 registration application of your facility with a</p> <p>18 total of two houses with a total capacity of 28,000</p> <p>19 layers. This application has been reviewed by the</p> <p>20 ODAFF, WQS staff, and it is officially approved as</p> <p>21 it meets all the requirements entitled in Oklahoma</p> <p>22 Statutes Section 10-9.3 of the Oklahoma Registered</p> <p>23 Poultry Feeding Operations Act, Dan Parrish. Do you</p> <p>24 know what the review process is at ODAFF in Oklahoma</p> <p>25 City for either new house construction or</p>	<p>1 BY MR. McDANIEL:</p> <p>2 Q Good afternoon, Mr. Littlefield.</p> <p>3 A Good afternoon.</p> <p>4 Q I'm Scott McDaniel, and I'm an attorney. I</p> <p>5 represent Peterson Farms --</p> <p>6 A Okay.</p> <p>7 Q -- in the lawsuit. Just as a reminder, I'm</p> <p>8 sure it's probably on your mind, but you're still</p> <p>9 under oath --</p> <p>10 A Yes.</p> <p>11 Q -- in the deposition. Okay. In the -- this</p> <p>12 morning in your discussions with Mr. Elrod, did you</p> <p>13 have an opportunity, in answering his questions, to</p> <p>14 explain all the things that you do on your job as</p> <p>15 far as inspector for the Oklahoma Department of</p> <p>16 Agriculture?</p> <p>17 A Yeah, technical assistance and soil and litter</p> <p>18 sampling and complaint investigations.</p> <p>19 Q Tell me what technical assistance means.</p> <p>20 A It may be something in our waste management</p> <p>21 plan that they don't understand exactly, you know,</p> <p>22 or the application rate, or -- or they've got a</p> <p>23 letter from the office that they don't understand</p> <p>24 and why, and if I don't, well, I call and find out,</p> <p>25 but --</p>

22 (Pages 82 to 85)

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<p>1 Q So is that --</p> <p>2 A Educational, about their educational hours,</p> <p>3 you know, where schools is coming up and being</p> <p>4 behind or not behind.</p> <p>5 Q So are you kind of a conduit for information</p> <p>6 to the growers, is that what you're saying?</p> <p>7 A Yes, I am.</p> <p>8 Q All right. So if an Oklahoma registered</p> <p>9 poultry grower had some question concerning</p> <p>10 confusion about his or her animal waste management</p> <p>11 plan, they might call you and you would have a</p> <p>12 discussion with them about that, is that what you're</p> <p>13 telling me?</p> <p>14 A Yes, in some cases I've done that, yes.</p> <p>15 Q Can you think of any examples of types of</p> <p>16 questions that have come up from growers that --</p> <p>17 where they've needed some technical assistance like</p> <p>18 that?</p> <p>19 A Application rates that they can spread.</p> <p>20 Sometimes they -- they wonder if it's -- their soil</p> <p>21 tests tests 250 and they're in a 400 phosphorus</p> <p>22 level area, like Grand is, can I put litter on it --</p> <p>23 Q Uh-huh.</p> <p>24 A -- and this type of questions.</p> <p>25 Q So in answering a question like the example</p>	<p>1 the next page of the exhibit under Section B, and it</p> <p>2 says, the criteria for best management practices, do</p> <p>3 you see that section?</p> <p>4 A Yes, I do.</p> <p>5 Q And then subsection one, it says, there shall</p> <p>6 be no discharge of poultry waste to the waters of</p> <p>7 the state. You're -- I mean, I'm sure you're --</p> <p>8 A Yes.</p> <p>9 Q -- well familiar with that statement in the</p> <p>10 law; right?</p> <p>11 A Yes.</p> <p>12 Q Tell me, sir, what is your understanding of</p> <p>13 what poultry waste means in that sentence? Are we</p> <p>14 talking about poultry litter?</p> <p>15 MR. NANCE: Object that it calls for a</p> <p>16 legal conclusion. You can answer.</p> <p>17 A Just from the top of my head, just my -- what</p> <p>18 I'm, you know, think in terms is that it's poultry</p> <p>19 waste, that's what I -- I think it could be</p> <p>20 something else after I sit here and think about it a</p> <p>21 little bit, but poultry waste is what I first --</p> <p>22 Q (By Mr. McDaniel) Well, a lot of -- when --</p> <p>23 for instance, when a broiler house is cleaned out?</p> <p>24 A Yes.</p> <p>25 Q That material, what do you call that material</p>
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<p>1 you gave, what do you refer to to try to assist the</p> <p>2 grower with the answer? Do you look at their animal</p> <p>3 waste management plan or is there something else</p> <p>4 that you use as a tool?</p> <p>5 A Well, yes, if they have their waste management</p> <p>6 plan available I do, and, of course, their soil</p> <p>7 tests and litter tests so that I will know, and I</p> <p>8 have copies of the 590 Rule. And that's what I go</p> <p>9 by, that's what's in their farm plan.</p> <p>10 Q Okay. So as far as the Oklahoma's laws that</p> <p>11 relate to management of poultry litter, you're the</p> <p>12 man on the ground that's enforcing those laws out in</p> <p>13 the watersheds; is that a correct statement?</p> <p>14 A I -- I think so.</p> <p>15 Q Okay. Well, that's what I thought, too. I</p> <p>16 just wanted to make sure you saw it the same way I</p> <p>17 did. Now, the Exhibit No. 1 that was given to you,</p> <p>18 which was the stapled set of the statutes?</p> <p>19 A Yeah.</p> <p>20 Q I want to look at some of the language in that</p> <p>21 statute with you. Let's flip over to Section</p> <p>22 10-9.7, the section on waste management practices.</p> <p>23 Have you found the beginning of that section?</p> <p>24 A Yes.</p> <p>25 Q Are you with me? All right. If you'd go to</p>	<p>1 that comes out of a broiler house? Do you call it</p> <p>2 litter?</p> <p>3 A I call it litter.</p> <p>4 Q Okay. Is -- to you, is litter also, is that</p> <p>5 poultry waste?</p> <p>6 A Yeah, I guess it -- to me it is.</p> <p>7 Q Okay. And most, in your experience, poultry</p> <p>8 growers talk about poultry litter, they don't</p> <p>9 necessarily use words like poultry waste, do they?</p> <p>10 A That's exactly right. They're opposed mostly</p> <p>11 to do that.</p> <p>12 Q Well, that's what I'm trying to get you and I</p> <p>13 using the same kind of language so I don't create --</p> <p>14 A Right.</p> <p>15 Q -- any confusion. Okay. Now, the question of</p> <p>16 whether any particular poultry operation is causing</p> <p>17 pollution of Oklahoma's waters, that is something</p> <p>18 within your jurisdiction as the inspector, is that</p> <p>19 correct?</p> <p>20 A Yes, I think so.</p> <p>21 Q Okay. This same section that we're looking at</p> <p>22 where it makes reference to best management</p> <p>23 practices, and I'm not asking for you to give one of</p> <p>24 your seminars, but can you tell us quickly what best</p> <p>25 management practices are? What is a best management</p>

23 (Pages 86 to 89)

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1 practice?
 2 A Well, what I think in terms of best management
 3 practices is that the way they clean out their
 4 houses, being particular about how they get it on
 5 the trucks and how they get it on their spreaders,
 6 how they're getting it from their house to the
 7 fields. Also, their -- the waters of the state,
 8 that they stay back according to the guidelines set
 9 in their -- in the 590 Rule from intermittent
 10 streams and lakes and ponds and swales. And making
 11 sure that, you know, that when they spread their
 12 litter, you know, that it's -- the slope area is not
 13 too great, that there's some forage on the ground
 14 and it's not just like the top of this table, and
 15 these are the type of things that I look for and
 16 I -- I speak to them about.
 17 Q Okay. Who decides what best management
 18 practices any particular poultry grower must follow?
 19 A What's that again?
 20 Q Who makes the decision --
 21 A What really is best management practices?
 22 Q Okay, sure.
 23 A I'll help you --
 24 Q I like your question better than mine. We'll
 25 start with your question and see if we can get mine

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1 answered.
 2 A I need to be quiet.
 3 Q No, that's fine.
 4 A I think they do, with my assistance or maybe
 5 Dan's, you know, if they call the office.
 6 Q Go ahead.
 7 A Based upon the Rule 590.
 8 Q 590 has a lot of specific best management
 9 practices spelled right out in it, doesn't it?
 10 A I think it does, yes.
 11 Q Well, we'll look at it in a minute and you can
 12 show me if you want.
 13 A Yeah.
 14 Q Okay. Anything else on that?
 15 A No, I think that's --
 16 Q But it is a requirement of Oklahoma law that
 17 each registered poultry operation utilize best
 18 management practices --
 19 A Yes.
 20 Q -- true? And the objective of those
 21 practices, sir, isn't it to protect the natural
 22 resources of the State of Oklahoma from
 23 contamination?
 24 A That's what I think. Help protect, I could
 25 say.

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1 Q Okay. Now, but best management practices can
 2 vary from farm to farm or pasture to pasture; is
 3 that right?
 4 A Yes, it can.
 5 Q In other words, there's some practices that
 6 may make sense and work at farm A that may have no
 7 applicability to farm B?
 8 A I think so.
 9 Q Because of streams or slope or soil or a lot
 10 of different things that can vary?
 11 A I think so.
 12 Q All right. So as far as a poultry grower
 13 knowing what best management practices to follow, if
 14 I understand, and if they want to comply with the
 15 law, then they have to follow best management
 16 practices that are set out in their animal waste
 17 management plan; right?
 18 A Uh-huh.
 19 Q And would you agree that those best management
 20 practices really come from the Code 590 and are made
 21 part of their farm specific animal waste management
 22 plan?
 23 A Well, I don't know where they came from. I
 24 would -- whoever wrote this law up I think could
 25 tell you where -- where they got their information

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1 to write it, but it follows the 590 Rule pretty
 2 much. It does to me, that's the way I interpret it.
 3 Q Okay. Let me ask this to you in a different
 4 way then. Let's assume I'm -- I'm a new registered
 5 poultry grower in Oklahoma and I want to know what
 6 best management practices to follow for my property.
 7 What do I need to look at, what do I need to do to
 8 make sure that I follow those practices and that I'm
 9 in compliance with state law, what do I do?
 10 A I think you're supposed to use his waste
 11 management plan, the animal waste management plan.
 12 Q Okay. Now, if I'm -- if I'm a new grower and
 13 I've applied for a plan, now -- let me step out a
 14 second. My understanding is sometimes it can take a
 15 long time to get one of these plans written?
 16 A Sometimes that's right.
 17 Q Whether it's a backlog or manpower or
 18 whatever?
 19 A Whatever, yeah.
 20 Q So let's say I get -- let's say I get my
 21 certificate from ODAFF today. I'm -- legally, I can
 22 operate, and I make my application for a plan. If I
 23 have a letter from Oklahoma NRCS saying that I've
 24 applied, then ODAFF is satisfied for now; correct?
 25 A That's true.

24 (Pages 90 to 93)

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<p>1 Q All right. So let's say now I have -- I'm 2 doing a clean out and I have some litter, I have 3 some pasture, I want to put it down, how do I know 4 what to do to stay legal if I don't have that plan 5 yet? Can I call you or what should I do? 6 A If I have an opportunity to go to the farm 7 when there's a new grower that comes in and I know 8 about it, I usually sit down with them and tell them 9 that before they get rid of any litter, they've got 10 to have a litter analysis back, a sample taken. 11 They most likely have not had the nine hour 12 education classes yet, and so I basically tell them 13 the rules and regulations, you might say, in -- not 14 in complete detail, but what they've got to know 15 early. 16 Q Okay. 17 A Such as if they're taking a cake-out and they 18 want to get rid of it, they can't just give it to 19 you, they've got to have an analysis back in time so 20 that they can give you a copy of the analysis, and 21 these are the type of things that I sit down and 22 visit with them about and tell them. At the same 23 time, if they're thinking about spreading it on 24 their own land, I tell them then -- that gives me an 25 opportune time to tell them that they have to have a</p>	<p>1 that he's trying to buy your place and he's sending 2 in an application, and I'll know ahead of time of 3 what to tell him in regards to best management. 4 Q Okay. Thank you for that explanation. So -- 5 all right. Again, the example, I'm the new grower, 6 I do not have my state approved plan back yet, but 7 because you told me I had to sample my litter and I 8 had to sample my fields, I've done that. Now I've 9 got those analyses. With those, you can sit down 10 with me at my kitchen table and help me. Let's say 11 I'm getting ready to do a clean out next month and I 12 want to put it on my land, you can help me with 13 those or figure out what I can apply using the 590 14 or what? 15 A Yes, I think I can. 16 Q Okay. 17 A You know, according to that rule. 18 Q Okay. Well, what -- the question I'm coming 19 back to is if I'm that farmer and I find myself in 20 that position, I assume that comes up, you have -- 21 A Yes. 22 Q -- new farmers don't have plans. If they want 23 to comply with the law -- 24 A Yes. 25 Q -- they want to be legal, they don't want to</p>
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<p>1 soil test and the soil test has to be a certain 2 thing, and there are many times, especially some of 3 the Hmong and Laotian people didn't understand, and 4 then lots of people, not just them, can't read the 5 soil tests and know for sure, didn't know how to 6 take a sample. I have volunteered to help them 7 before. I have told them -- drew out kind of a 8 diagram from the protocol that OSU lays out to show 9 them how to get so many different cores and mix them 10 together, where to take it. And then if they have 11 any questions when they get them back, whether they 12 can apply or not apply or whatever, to contact me. 13 Q Okay. 14 A I can't do that if I don't know ahead of time 15 that a new grower has -- has bought somebody out or 16 something. Now, if he's building a house I do, if 17 it's new houses, I'll know that ahead of time, but 18 sometimes they just sell and I won't know it right 19 away. And -- but when I do, and in my particular 20 area, I like -- I kind of make it a habit and it's 21 just extra work for me, but if you're thinking about 22 buying a farm, I've always told the farmers that 23 when you get ready to sell, if you would, you're 24 going to sell it to Bob, call me and I'll help Bob 25 fill out his paperwork. That way I know up front</p>	<p>1 cause pollution -- 2 A That's right. 3 Q -- they've got to know what to do? 4 A That's true. 5 Q So my question is, how does that farmer stay 6 legal? What does he do to stay legal? And you've 7 explained about taking the samples, so the next step 8 is application rate and location, how does he get 9 that information? 10 A There's two or three ways. One way is me, as 11 I said earlier, I could tell him, and I would go 12 back and help him so that he would know, but the 13 person that applies the litter has to have license. 14 Q Okay. 15 A So the spreader operator comes in. Supposedly 16 he knows the rules, so he can get -- he can help the 17 grower in some parts of the best management rules. 18 Q Do those commercial operators, do you ever get 19 requests for technical assistance from them, as 20 well? 21 A Yes, I do. More so now than I used to. 22 Q What's a -- what are the typical reasons they 23 would call you? 24 A How much slope, John, can I get? How much 25 litter can I put on certain land with slope? How</p>

25 (Pages 94 to 97)

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<p>1 close -- how close can I get to the creek or the 2 road or those kind of questions. 3 Q Is the NRCS Code 590, is that the Bible you 4 look back to that -- 5 A That's the Bible I look to, it is. 6 Q Okay. All right. 7 A Other than -- I might say, other than some 8 special proposals or something that maybe our office 9 has made, you know, we suggest, you know, that you 10 don't spread within 300 feet of something, whereas 11 the 590 Rule may say a hundred. I'm just using that 12 for an example. Then I have had them to ask me, 13 well, what's the law. 14 Q Uh-huh. 15 A Well, and then I -- I refer to the 590 Rule. 16 Q Those special recommendations you mentioned 17 just a moment ago? 18 A Uh-huh. 19 Q Are those farm specific or would they apply to 20 a county or a watershed? I've not heard that, so 21 help me understand what those are. 22 A Now, what's that? 23 Q You made an example that ODAFF may request 24 that someone not apply within 500 feet instead of 25 300 feet. Is that a farm specific recommendation</p>	<p>1 A Uh-huh. 2 Q Would you agree that the animal waste 3 management plan is the tool through which the State 4 of Oklahoma regulates that conduct? 5 A (Witness nods head up and down.) I would 6 judge it that way. That's just my opinion. 7 Q Now, we talked a lot about the Code 590. Let 8 me hand it out here so we all know that we're 9 talking about the same thing and I can ask questions 10 about it. Are we at 10 or 11? 11 COURT REPORTER: 11. 12 Q (By Mr. McDaniel) Okay, sir. Let me hand you 13 what I've marked as Exhibit 11, and tell me if you 14 agree that's NRCS Code 590? Okay. I think I've got 15 another one. I'm just trying to make sure that down 16 there gets one of them. Did you answer my question 17 while I was shuffling papers? 18 A No, I didn't. I didn't even -- 19 Q Okay. 20 A -- hear it, I guess, or I was thinking about 21 something else. 22 Q The question is, do you agree that this is the 23 Natural Resource -- Natural Resource Conservation 24 Service -- 25 A Yeah, I think.</p>
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<p>1 that might be in a plan? 2 A No, no, I don't think it's a farm, it's not -- 3 it's not just for you or just for him. Those are 4 just -- we just highly recommend. You know, I do 5 that a lot of times, even on my own. You know, I'd 6 say, well, your soil test is 375, and 400 is the 7 limit. I think I would look for another piece of 8 land to put litter on. I don't think I'd put litter 9 on there. That's just a recommendation. You know, 10 he can, because he's under 400, according to the 11 law. 12 Q Okay. 13 A But it's just -- and I feel like -- I don't 14 know that, you'd have to ask Dan, and maybe he's 15 already answered it, but I feel like that that's 16 sometimes our case, maybe it's not, I don't know for 17 sure, I can't talk -- speak for him, but I looked at 18 it as -- and I tell them, you know, we recommend 19 that you don't get within 300 feet here, and they'll 20 say, okay, fine. If somebody -- and some of them do 21 that's been -- well, what's the law, well, then I 22 refer to their plan, the farm plan, if they have 23 one, or 590 Rule is what I go by. 24 Q Again, from the perspective of the person 25 who's putting poultry litter on the ground.</p>	<p>1 Q -- management? 2 A This is probably in detail, but I think it is. 3 Q Okay. The Code -- what we've called the Code 4 590? 5 A Yes, that's -- 6 Q And this -- to your knowledge, is this 7 something that's written and put out by the Natural 8 Resources Conservation Service, a division of the 9 United States Department of Agriculture? 10 A Yeah, to my -- the best of my knowledge. 11 Q Okay. Is it your -- I gather from everything 12 you've told me you're pretty familiar with this. 13 I'm not going to ask you if you've memorized it, but 14 you use it in your job? 15 A Oh, I use it, yes. 16 Q And on the first page of this Code 590, it has 17 a little paragraph there and it says, purposes, do 18 you see that on the front page? 19 A Oh, yeah. 20 Q And the third bullet point under that says, to 21 minimize agricultural non-point source pollution of 22 surface and groundwater resources. Is it also your 23 understanding, Mr. Littlefield, that that is one of 24 the purposes of the Code 590 is to manage -- 25 A That's my personal opinion, yes.</p>

26 (Pages 98 to 101)